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ROYAL  
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TO  
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**1670-1776**



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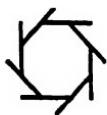
ROYAL  
INSTRUCTIONS  
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BRITISH  
COLONIAL GOVERNORS  
1670-1776

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COLLATED AND EDITED BY  
LEONARD WOODS LABAREE

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*Volume II*



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## PART XI

### INDIAN AFFAIRS

663. PROTECTION OF IROQUOIS AGAINST THE FRENCH  
AND whereas we have received information that the French have lately made an attempt upon the Five Nations or Cantons of Indians, who from all times have submitted themselves to our government, and by their acknowledgments of our sovereignty are become our subjects; and that divers of our subjects, as well Indians as others, have been surprised and detained in Canada; we do therefore think fit that you forthwith demand from the governor of Canada the setting at liberty our said subjects, as well Indians as others, surprised by them in the lawful prosecution of their trade, together with the restitution of their goods and effects. And as we are sensible of what great prejudice it may be to us and our subjects if any encroachment be allowed upon our dominion or the French permitted to invade our territories or to annoy our subjects without a due care in us to preserve the peace of our government and to give all due protection to such as have brought themselves under our subjection; we do therefore hereby charge and require you to give notice at the same time to the said governor of Canada that upon mature consideration we have thought fit to own the Five Nations or Cantons of the Indians, viz: the Maquaeas,<sup>1</sup> Sinecas, Cayougues, Oneydes, and Onondagues, as our subjects, and resolve to protect them as such; so as nevertheless upon information of any injury offered or which shall be offered or done by them to any of the subjects of our good brother, the Most Christian King, to cause, as we do hereby direct you to cause, entire satisfaction to be made for the same, and the Indians withheld from disturbing the French in any manner whatsoever; provided they do abstain on their parts from making war upon those Indians our subjects or doing them any injury. And in case the people of Canada shall notwithstanding this declaration persevere in invading our domin-

<sup>1</sup> *I. e.*, Mohawks.

ions and annoying those Indians, you are with the utmost of your power to defend and protect them, and if need shall require to levy, arm, or employ all persons residing in your government in the resisting and withholding the invasions or attempts of the French, and them, if there shall be occasion, to pursue in or out of the limits of your said government, and to do and execute all and every other thing which you shall find necessary for the protecting our subjects and preserving our rights in those parts. And for the better performance thereof we do hereby give you full power and authority to erect and build such forts, castles, and platforms, and in such place or places as to you shall seem requisite for this service. And in case it shall happen that upon this occasion the aid or assistance of our neighboring colonies may be useful, you are to give notice thereof to our several governors and proprietors in any of our plantations upon the continent of America, to whom we have already sent orders to afford you such help as the exigency shall require.

New England: 1688-89.

#### 664. ENCOURAGE INDIANS TO APPLY TO ENGLISH TRADE

You are to encourage the Indians upon all occasions so THAT they may apply themselves to the English trade and NATION rather than to any other OF EUROPE.

A—Omit THAT . . . NATION and substitute: “as to induce them to trade with our subjects”.

B—Omit OF EUROPE.

Massachusetts: 1691-1701; 1701-57 B.      New Jersey: 1702-8; 1708-Rev. A.  
New Hampshire: 1715-28 B; (§ 912).

#### 665. RELATIONS WITH THE IROQUOIS (I)

And you are to encourage all you can the INDIANS upon all occasions that they may apply themselves to the English trade and nation rather than to any others of Europe. BUT you are also to act so prudently in respect of your European neighbors as to give them no just cause for complaint against you.

A—Omit INDIANS and substitute: “several Indians on the continent.” Omit from BUT to the end.

New England: 1686-88; 1688-89 A.      New York: 1686-88; (§ 666).

## 666. RELATIONS WITH THE IROQUOIS (II)

You are to encourage the Indians upon all occasions so as to induce them to trade with our subjects rather than any other of Europe. And you are to call before you the Five Nations or Cantons of Indians, viz, the Maquais, Senecas, Cayouges, Oneydes, and Onondages, and upon their renewing their submission to our government, you are to ASSURE them in our name that we will protect them as our subjects against the French king and his subjects; AND you are to give the like assurance to the Shacock or River Indians, and to such other Indians in that neighborhood as by their union and friendship with the Five Nations aforesaid and in conjunction with them shall submit themselves in the same manner to our GOVERNMENT; and when any opportunity shall offer for purchasing great tracts of land for us from the Indians for small sums you are to use your discretion therein as you shall judge for the convenience or advantage which may arise unto us by the same. AND you are to inform us and our Commissioners for Trade and Plantations as aforesaid WHAT has been the consequence of the treaty of neutrality agreed between the said Five Nations and the French Indians.

A—Omit ASSURE and substitute: “give them our royal presents which we have caused to be provided for them, assuring”.

B—Omit AND . . . GOVERNMENT.

C—Omit from AND to the end.

D—Omit from WHAT to the end and substitute: “whether any treaties have been agreed upon between the said nations of Indians and the French during the late war or previous thereto and what has been the consequence thereof.”

E—Add at end: “and whether that or any other treaty of the like nature be now subsisting between the said Indians.”

New York: (§§ 665, 670); 1690–92 A, B, C; 1692–1703 B, C; 1703–8 C; 1708–27; 1727–53 E; 1753–55 D; (§§ 667, 671).

## 667. RELATIONS WITH THE IROQUOIS (III)

You are to encourage the Indians upon all occasions so as to induce them to trade with our subjects rather than any others of Europe; and you are as soon as possible after your arrival to hold an interview with the Five Nations or Cantons of Indians, viz: Maquas, Senequas, Cayouges, Oneydes, and Onondages, and such

as shall have joined themselves in league with them, at such time and place as you shall find most convenient; and upon their renewing their submission to our government, you are to assure them in our name that we will protect them as our subjects against the French king and his subjects; and you are to give the like assurance to the Shaccook or River Indians and to such other Indians in that neighborhood as by their union and friendship with the Five Nations aforesaid and in conjunction with them shall submit themselves in the same manner to our government.

New York: (§§ 665, 666); 1755-70.

#### 668. ACCOUNTS OF EXPENDITURES FOR INDIAN PRESENTS

You are to take an account of what goods, arms, and other stores, &c., have been sent from hence to the two last governors to be distributed as presents to the Five Nations of Indians aforesaid, and how the same have been distributed. More particularly, whereas we have understood that before the arrival of a present to the value of £800, sent in the year 1700 by our ship the *Advice*, the late Earl of Bellomont had provided with the public money of that province and accordingly distributed other presents to the said Indians, so that what was then sent from hence did all or the greatest part thereof remain in store; you are to take an exact inventory of what is so remaining and in calling before you the Indians as aforesaid you are to distribute amongst them such part thereof as you shall judge convenient, and in such manner as may best conduce to engage them in their dependence on and subjection to our government.

New York: 1701-8.

#### 669. INQUIRE INTO CAUSE OF INDIAN COMPLAINTS

And whereas great complaints have lately been made by the Five Nations or Cantons of Indians that settlements have been made upon their lands by persons claiming the same under pretended deeds of sale or conveyance from the said Indians, by means whereof great prejudice hath arisen to our service; in order therefore to obviate the ill effects which would attend a general discontent of [at?] this critical juncture and that nothing may be wanting to

convince them of the sincerity of our intentions to support and protect them in their just rights; it is our express will and pleasure that you do forthwith make the most strict and impartial inquiry into the cause of their complaints, and that you do take the most speedy and effectual methods which the law in such cases will allow to redress their grievances and use your utmost endeavor to quiet the uneasiness and discontent which have of late appeared amongst them.

New York: 1755—Rev.

#### 670. USE OPPORTUNITIES TO BUY LANDS FROM INDIANS

And when any opportunity shall offer for purchasing great tracts of land for us from the said Indians for small sums, you are to use your discretion therein as you shall judge for the convenience, prejudice, or advantage which may arise unto us by the same.

New England: 1686–89.

New York: 1686–90; (§ 666).

#### 671. PURCHASE OF LANDS FROM INDIANS

And whereas private persons in several of our colonies in America have frequently purchased lands from the Indians without any license from us or from any person acting under our authority, which PRACTICE is inconsistent with our rights and may endanger the peace and security of our said colonies; it is therefore our will and pleasure that you do not upon any pretense whatever make a grant or grants to any person or persons of any lands within our [colony of Virginia, province of New York], which may or shall have been purchased of the Indians without a license first had and obtained from you or the commander in chief for the time being. And when any application shall be made to you for a license to purchase lands of the Indians, you shall, before the issue of such license, cause the land proposed to be purchased to be carefully surveyed by a sworn surveyor in the presence of the Indians who claim a right to such lands and in the presence of an interpreter properly authorized, which said surveyor shall within a reasonable time, not exceeding three months, make a return to you of such survey, signed or otherwise attested and certified by such Indians, with a plot or description of the land and the exact buttions and

boundings thereof, the particulars whereof shall be fully inserted in the license by you to be granted for that purpose. And you are to take especial care that in all licenses to be granted by you for the purchase of lands from the Indians, the quantity of land to be purchased by any one person, whether in his own name or in the names of any person or persons in trust for him or her, do not exceed one thousand acres. And you are further to take care that in passing patents for land purchased of the Indians under a license from you, as aforesaid, you do strictly observe the regulations prescribed in the foregoing articles of these instructions to you relative to the form and method, terms and conditions of all grants of land.

A—Omit from beginning through PRACTICE and substitute: "And whereas purchasing lands from the Indians without a license from us or from any person acting under our authority".

New York: 1755—Rev. A.

Virginia: 1756—Rev.

## 672. NO SETTLEMENT WITHIN IROQUOIS TERRITORY OF 1726

And whereas at a meeting or interview held with the principal tribes of the Five Nations or Cantons of Indians in the year 1726, they did by a solemn deed or instrument<sup>2</sup> ratify, confirm, submit, and grant unto his late Majesty, our royal father, his heirs, and successors forever, all their land and beaver-hunting grounds lying and being sixty miles distant from the lakes, beginning from a creek called Canahoga on the Lake Oswego, all along the said lake and all along the narrow passage from the lake to the Falls of Oniagara, and all along the River of Oniagara and the Lake Cataraqui to the creek called Sodoms belonging to the Senecas, and from Sodoms to the hill called Tegerhunkserode belonging to the Cayougas, and from Tegerhunkserode to the creek called Cayhunghage belonging to the Onondages, all the said land being of the breadth of sixty miles from the aforesaid lakes or rivers directly into the country, and thereby including all the castles of the aforesaid nations, with all the rivers, creeks, and lakes within the said limits, to be protected and defended by his said late Majesty, his heirs, and successors forever, to and for the use of the said nations; YOU ARE THEREFORE in our

<sup>2</sup> The deed is printed in *N. Y. Col. Docs.*, V, 800–801. The conference leading to the agreement is recorded in *ibid.*, pp. 786–800.

name to give the most explicit assurances to the said nations or cantons of Indians of our royal resolution inviolably to observe the said treaty on our part and to defend and support them in the quiet possession of their said hunting grounds; AND you are not upon any pretense whatsoever to grant lands to any person whatever within the limits described in the said DEED, but to use your utmost endeavors to prevent any settlements being made within the same.

A—Omit YOU ARE THEREFORE and substitute: “and whereas we have directed our governor of our province of New York”. Omit AND . . . DEED and substitute: “it is therefore our express will and pleasure that you do not upon any pretense whatever grant lands to any person within such part of the tract described in the said deed as lies within the limits of our colony of Virginia.

New York: 1755–70.

Virginia: 1756–68 A.

### 673. FRIENDLY RELATIONS WITH NOVA SCOTIA INDIANS

And whereas we have judged it highly necessary for our service that you should cultivate and maintain a strict friendship and good correspondence with the Indians inhabiting within our said province of Nova Scotia, that they may be induced by degrees not only to be good neighbors to our subjects but likewise themselves to become good subjects to us; WE do therefore direct you upon your arrival in Nova Scotia to send for the several heads of the said Indian nations or clans AND enter into a treaty with them, promising them friendship and protection on our part AND BESTOWING upon them in our name AS your discretion shall direct such presents as you shall carry from hence for their use.

A—Omit WE . . . [first] AND and substitute: “you are therefore to use all proper means to attain those ends, to have interviews from time to time with the several heads of the said Indian nations or clans, to endeavor to”.

B—Omit (first) AND . . . BESTOWING and substitute: “and promise them friendship and protection in his Majesty’s part; you will likewise bestow”.

C—Omit from (second) AND to the end.

D—Omit from AS to the end and substitute: “such presents as you shall judge proper”.

Nova Scotia: 1719–49 B; 1749–52; 1752–56 D; 1756–64 A, D; 1764–Rev. A, C.

#### 674. ENCOURAGE INTERMARRIAGE WITH NOVA SCOTIA INDIANS

And as a further mark of our good will towards the said Indian nations, you shall give all possible encouragement to intermarriages between our PROTESTANT subjects and them, for which purpose you are to declare in our name that EVERY white man who shall marry an Indian woman, native of our said province, and every white woman, being our subject, who shall marry an Indian man, shall have a grant of fifty acres of land free from the payment of any quit-rent for ten years, at the expiration of which term they shall pay 1 s. for every fifty acres so granted.

A—Omit PROTESTANT and substitute: “British”. Omit from EVERY to the end and substitute: “his Majesty will bestow on every white man, being one of his subjects who shall marry an Indian woman native and inhabitant of Nova Scotia a free gift of the sum of £10 sterling and fifty acres of land free of quit-rents for the space of twenty years, and the like to any white woman being his Majesty’s subject who shall marry an Indian man native and inhabitant of Nova Scotia as aforesaid”.

Nova Scotia: 1719-49 A; 1749-73.

#### 675. PEACE WITH INDIANS; RECEPTION OF ROYAL COMMISSIONERS

You shall endeavor to make a good peace with the neighbor Indians, and in managing and concluding a treaty with them you shall make use of the assistance of THE commissioners whom we now send from HENCE to that our colony, WHOM you shall receive and treat with all due respect as persons chosen by us for their loyalty and ability to undertake and perform the high trust we have reposed in them. And particularly you ARE to provide them with a convenient house and lodging. And immediately upon their arrival you shall together with them make the council (or such as can conveniently be assembled) acquainted with it and likewise with the contents of THEIR commission.

A—Omit THE and substitute: “your fellow”. After HENCE add: “with you”. Omit WHOM . . . ARE and substitute: “And you as our lieu-

tenant governor shall take care". Omit from THEIR to the end and substitute: "our commission given to you and them as our commissioners".

Virginia: (to Gov. Berkeley) Oct. 13, 1676; (to Lieut. Gov. Jeffreys) Nov. 11, 1676 A.

### 676. GRANT EQUAL JUSTICE TO INDIANS

And whereas we have thought fit to take the native Indians into our especial protection, and in testimony thereof have directed you to deliver unto them our royal presents; you are therefore to take care that they be allowed the same measure of justice in matters relating to the English and other our subjects as by law is due and belonging unto them from the Indians in the like cases.

Virginia: 1679-82.

### 677. RETURN A CERTAIN INDIAN HOSTAGE

And you are to take care that the Queen of Wianoke's brother, delivered as an hostage to Sir William Berkeley and brought by him into England and by our order taken some time since into your care, be returned and set at liberty at your arrival in Virginia.<sup>3</sup>

Virginia: 1679-82.

### 678. PERMIT FREE TRADE WITH INDIANS

And as upon the several representations made unto us concerning a trade with the Indian natives, we have thought fit to permit a free trade between all our subjects of Virginia and the said INDIANS; you are therefore to signify the same to our next grand assembly and to give them to understand that out of our great care for the welfare of that our colony we have preferred the particular benefit of our subjects there before any advantageous offer that has been made unto us for retaining that trade with the Indians, whereof we do expect they should have a due sense and provide by some

<sup>3</sup> In Culpeper's marginal comments on his instructions, 1681, there is the following note opposite this article: "The Queen of Wayonoke's brother died in England before I set sail". C. O. 5: 1855, p. 330.

other means in lieu of such offers for the better support of our government.

A—After INDIANS add: “and we being willing to continue the same to all our subjects of that our colony”.

B—Omit from you to the end, and substitute: “and we being willing to continue the same permission to all our subjects of that colony, you are therefore to give all proper encouragement thereto”.

Virginia: Dec. 3, 1683–1685; 1685–1728 A; 1728–56 B; (§ 680).

#### 679. AGREEMENT WITH VIRGINIA AND NEW YORK INDIANS

And whereas you have already made an agreement between the Indians of Virginia and New York, FOR the peaceable living with our subjects and submission to our GOVERNMENT; <sup>4</sup> we do hereby approve the same and do charge and require you as much as in you lies that the same agreement be punctually observed AND renewed if it shall be NECESSARY, as conduced to the welfare of our colony under your government.

A—Omit FOR . . . GOVERNMENT. Omit AND . . . NECESSARY.

Virginia: 1685–90 A; 1690–1756.

#### 680. ENCOURAGE TRADE WITH WESTERN INDIANS

And whereas there are several nations, cantons, or tribes of Indians inhabiting the western parts of our said colony under your government; you are upon all occasions to give them all proper encouragement so as to induce them to trade with our subjects in preference to any others of Europe, and to become not only peaceable neighbors but useful and faithful allies. And you are with the advice of our council of our said colony to establish regulations with respect to the trade carried on with the said Indians, as may best conduce to the restriction or prevention of fraud and imposition in those persons by whom such trade is carried on.

Virginia: (§ 678); 1756-Rev.

<sup>4</sup> See *Cal. State Paps., Col.*, 1681–85, §§ 1822, 1823, 1828; *N. Y. Col., Docs.*, III, 347, 417–418.

### 681. FRONTIER TROUBLES FOLLOWING CHEROKEE MURDER<sup>5</sup>

Whereas it hath been represented unto us that great riot and disturbance has of late been excited and committed in the frontier settlements in our colony of Virginia by numbers of lawless and dissolute persons, who have assembled together in open defiance of the laws and have broken open the jail and rescued from thence persons committed for having in a most savage and atrocious manner put to death several Indians in alliance and friendship with us, who were peaceably passing through the colony under the protection of government; and whereas it hath been further represented unto us that these riotous disturbers of the public peace have openly and publicly declared that the killing a savage is an action for which no man ought to suffer; and whereas it is highly necessary and expedient that such dangerous and illegal acts and proceedings, founded in principles so irreligious and inhuman, should be discouraged and suppressed; it is therefore our will and pleasure and you are hereby strictly enjoined and required vigorously to repress for the future, by military power or otherwise as occasion may require, any such outrages and disturbances and to make application from time to time, in case you shall judge the same necessary and expedient, to the commander in chief of our forces in North America for such a number of troops as may be necessary and sufficient for such purpose, who will receive our orders to furnish the same accordingly.

Virginia: Oct. 10, 1765.

### 682. EVACUATION OF BACK SETTLEMENTS IN VIRGINIA

Whereas it hath been represented unto us that several persons from Pennsylvania and the back settlements of Virginia have migrated to the westward of the Alleghany Mountains and there have seated themselves on lands contiguous to the River Ohio, in express disobedience to our royal proclamation of the seventh of October, 1763; it is therefore our will and pleasure and you are hereby strictly required to use your best endeavors to suppress such un-

<sup>5</sup> See *Acts, Privy Coun., Col.*, 1745-66, § 620.

warrantable proceedings and to put a stop to these and all other the like encroachments for the future, by causing all persons belonging to the province under your government who have there irregularly seated themselves on lands to the westward of the Alleghany Mountains immediately to evacuate those settlements; and that you do enforce as far as you are able a more strict obedience to our commands signified in our said royal proclamation and provide against any future violations thereof.<sup>6</sup>

Virginia: Oct. 24, 1765.

### 683. TREATMENT OF INDIANS IN GEORGIA

You are to transmit unto our Commissioners for Trade and Plantations in order to be laid before us the most exact account you can procure of the number and strength of Indian tribes or nations residing within our said colony, with whom you are to cultivate and maintain a strict friendship and good correspondence, to the end that they may be induced not only to be good neighbors to our subjects but likewise to become themselves good subjects to us; and you are to use your best endeavors to encourage and promote a trade with the said tribes or nations and to establish such just and wholesome regulations with respect thereto as shall seem to you most expedient for that end; and it is our express will and pleasure that no person be permitted to trade with the said Indians without a license for that purpose first obtained under your hand and seal; and that you do recommend it in the strongest terms to all persons to whom you shall grant such license to be just and reasonable in all their dealings with the said Indians.

Georgia: 1754—Rev.

### 684. DEVELOP GOOD UNDERSTANDING WITH INDIANS

And whereas it is highly necessary for the welfare of Carolina that a good understanding should be maintained with the Indian nations, as well for the promoting of trade as for the security of the frontiers of your government; you are hereby particularly enjoined

<sup>6</sup> A similar instruction was sent to the proprietary governor of Pennsylvania on the same date. *Pa. Col. Recs.*, IX, 321. This instruction is included here rather than in Part XIII, "Land", because of its close connection with the Indian problem, as in §§ 687, 690, etc.

to use all possible ways and means for regaining the affections of the said Indians, and to preserve a good correspondence with such of them as remain faithful to our INTEREST; and you are likewise hereby directed to recommend in the strongest terms to the Indian traders to be just and reasonable in their dealings with the native Indians, and likewise to propose to the assembly, if you and our council there shall judge it necessary, to pass one or more laws for the better regulation of the said Indian trade and for the encouragement and protection of such Indians as shall adhere to our interest.

A—Omit from beginning through is and substitute: “And whereas there is great reason to believe that the Indians on the frontiers of Carolina who have of late years fallen off from the British interest there have been in some measure provoked thereto by the injustice or ill usage which they have received from our subjects in your government; and it being”. After INTEREST add: “but especially with the Cherokee Indians inhabiting the mountains on the northwest side of the said province of South Carolina”.

North Carolina: 1730—Rev.

South Carolina: 1720—Rev. A.

## 685. INDIAN TRADE OF SOUTH CAROLINA AND GEORGIA

Whereas several disputes have arisen between the two provinces of South Carolina and Georgia in relation to the trade carried on by the said two provinces with the Indians, it is our will and pleasure that you recommend it to the council and assembly to pass a proper act or acts for settling that trade on such a footing as may be for the mutual benefit and satisfaction of both the said provinces. We have at the same time given an instruction to our right trusty and well-beloved the Trustees for Establishing the Colony of Georgia <sup>7</sup> to pass a like law for that province, and in the meantime “to direct their commissioner in that province to grant licenses to all persons who shall apply for the same and shall bring certificates from the governor and council of South Carolina that they are proper to be licensed to trade with the Indians, such persons giving reasonable security to demean themselves well towards the Indians in amity with the crown of Great Britain”, and likewise to forebear (as they allege they have hitherto done) to levy the sum of five

<sup>7</sup> The minutes of the Common Council of the Georgia Trustees, Aug. 23, 1738, note the receipt of this instruction and the taking of appropriate action. *Colonial Records of the State of Georgia*, I, 331.

pounds or any part thereof upon any of the Carolina Indian traders by virtue of the act passed by the Trustees for Establishing the Colony of Georgia in America, entitled *An Act for Maintaining Peace with the Indians*,<sup>8</sup> to which instruction we doubt not of their paying all due obedience.

South Carolina: 1738-55.

#### 686. ARRANGEMENTS FOR A FORT ON CHEROKEE LAND

Whereas it has been represented unto his Majesty that the nation or tribe of Indians commonly called and known by the name of the Cherokees bordering upon the province under your government have desired that a fort may be garrisoned by his Majesty's subjects in their country, offering as much land as is necessary for that purpose without any consideration, to assist in building the said fort, and to find the garrison in provisions for two years; and whereas his Majesty's Commissioners for Trade and Plantations have represented unto his Majesty that the complying with the request will tend to the cultivating and maintaining a friendship with the said Indians and to the security of his Majesty's said province of South Carolina; it is therefore his Majesty's will and pleasure and you are hereby directed and required to enter immediately into a treaty with the said nation of Indians for such a quantity of land as may be necessary for building the said fort, and in such a place as will most effectually answer the purposes thereof; and that you do forthwith transmit unto his Majesty by one of his principal Secretaries of State and to his Commissioners for Trade and Plantations the terms of such agreement as you shall make with the said nation of Indians together with a plan of such a fort as may be proper to be built and an estimate of the expense of building the same, for his Majesty's further directions thereupon.

South Carolina: June [30], 1748.

#### 687. SETTLEMENTS INTERFERING WITH FRONTIER INDIANS FORBIDDEN

Whereas the peace and security of our colonies and plantations upon the continent of North America does greatly depend upon the

<sup>8</sup> Passed Jan. 9, 1734/5. Printed in *ibid.*, I, 31-42.

amity and alliance of the several nations or tribes of Indians bordering upon the said colonies and upon a just and faithful observance of those treaties and compacts which have been heretofore solemnly entered into with the said Indians by our royal predecessors, kings and queens of this realm; and whereas notwithstanding the repeated instructions which have been from time to time given by our late royal grandfather to the governors of our several colonies upon this head, the said Indians have made and do still continue to make great complaints that settlements have been made and possession taken of lands the property of which they have by treaties reserved to themselves by persons claiming the said lands under pretense of deeds of sale and conveyance, illegally, fraudulently, and surreptitiously obtained of the said Indians; and whereas it has likewise been represented unto us that some of our governors or other chief officers of our said colonies, regardless of the duty they owe to us and of the welfare and security of our colonies, have countenanced said unjust claims and pretensions by passing grants of the lands so pretended to have been purchased of the Indians; we therefore, taking this matter into our royal consideration, as also the fatal effects which would attend a discontent amongst the Indians in the present situation of affairs, and being determined upon all occasions to support and protect the said Indians in their just rights and possessions and to keep inviolable the treaties and compacts which have been entered into with them, do hereby strictly enjoin and command that neither yourself nor any lieutenant governor, president of the council, or commander in chief of our said province of — do upon any pretense whatsoever upon pain of our highest displeasure and of being forthwith removed from your or his office, pass any grant or grants to any persons whatever, of any land within or adjacent to the territories possessed or occupied by the said Indians or the property or possession of which has at any time been reserved to or claimed by them; and it is our further will and pleasure that you do publish a proclamation in our name strictly enjoining and requiring all persons whatever who may either willfully or inadvertently have seated themselves upon any lands so reserved to or claimed by the said Indians without any lawful authority for so doing, forthwith to remove therefrom. And in case you shall find upon strict inquiry to be made for that purpose that any person or persons do claim to hold or possess any lands within our said province upon pretense of pur-

chases made of the said Indians without a proper license first had and obtained either from us or any of our royal predecessors or any persons acting under our or their authority, you are forthwith to cause a prosecution to be carried on against such person or persons who shall have made such fraudulent purchases, to the end that the land may be recovered by a due course of law. And whereas the wholesome laws which have at different times been passed in several of our said colonies and the instructions which have been given by our royal predecessors for restraining persons from purchasing lands of the Indians without a license for that purpose and for regulating the proceedings upon such purchases have not been duly observed; it is therefore our express will and pleasure that when any application shall be made to you for license to purchase lands of the Indians, you do forbear to grant such license until you shall have first transmitted to us by our Commissioners for Trade and Plantations the particulars of such application as well in respect to the situation as the extent of the lands so proposed to be purchased and shall have received our further directions therein. And it is our further will and pleasure that you do forthwith cause these our instructions to you to be made public, not only within all parts of our said province inhabited by our subjects, but also amongst the several tribes of Indians living within the same, to the end that our royal will and pleasure in the premises may be known and that the Indians may be apprised of our determined resolution to support them in their just rights and inviolably to observe our engagements with them.

Circular: Georgia, New Hampshire, New York, North Carolina, Nova Scotia,  
South Carolina, Virginia: <sup>9</sup> Dec. 12, 1761.

North Carolina: Dec. 12, 1761-1771.      South Carolina: Dec. 12, 1761-Rev.

#### 688. APPOINT A REPRESENTATIVE TO TREAT WITH THE INDIANS

And whereas our province of —, is in part inhabited and possessed by several nations and tribes of INDIANS, with whom it is both necessary and expedient to cultivate and maintain a strict friend-

<sup>9</sup> Approved, according to the order in council of Dec. 3, 1761, "for the governors of such of his Majesty's colonies upon the continent of North America as are under his Majesty's immediate government, and where the property of the soil is in his Majesty." *N. J. Arch.* IX, 326, suggests that the instruction may also have been sent to the governor of New Jersey, though the property of the soil there was in the proprietary bodies.

ship and good correspondence, so that they may be induced by degrees not only to be good neighbors to our subjects but likewise themselves to become good subjects to us; you are therefore as soon as you conveniently can AFTER YOUR ARRIVAL to appoint a proper person or persons to assemble and treat with the said INDIANS, promising and assuring them of protection and friendship on our part and delivering them such presents as shall be sent to you for that purpose.

A—Omit from beginning through (first) INDIANS and substitute: "And whereas our islands of Dominica, Tobago, and St. Vincent, more particularly the latter, are inhabited and in part possessed by Caribbean or wild Negroes". Omit (second) INDIANS and substitute: "Caribbeans or wild Negroes in the several islands."

B—Omit AFTER YOUR ARRIVAL.

East Florida: 1763—Rev.

Quebec: 1763—75 B.

Grenada: 1763—71 A.

West Florida: 1763—Rev.

#### 689. INVESTIGATE AND REPORT ON INDIAN CONDITIONS

And you are to inform yourself with the greatest exactness of the number, nature, and disposition of the several bodies or tribes of INDIANS, of the manner of their lives, and the rules and constitutions by which they are governed or regulated; and you are UPON no account to molest or disturb them in the possession of such parts of the said province as they at present occupy or possess, BUT to use the best means you can for conciliating their affections and uniting them to our government, reporting to us, by our Commissioners for Trade and Plantations whatever information you can collect with respect to these people and the whole of your proceedings with them.

A—Omit INDIANS and substitute: "Caribbean and wild Negroes in each island respectively". Omit UPON . . . BUT.

East Florida: 1763—Rev.

Quebec: 1763—75.

Grenada: 1763—71 A.

West Florida: 1763—Rev.

#### 690. NO SETTLEMENT BEYOND PROCLAMATION LINE

Whereas we have by our proclamation dated the seventh day of October in the third year of our reign, strictly forbid, on pain of our

highest displeasure, all our subjects from making any purchases or settlements whatever or taking possession of any of the lands reserved to the several nations of Indians with whom we are connected and who live under our protection, without our especial leave for that purpose first obtained; it is our express will and pleasure that you take the most effectual care that our royal directions herein be punctually complied with and that the trade with such of our Indians as depend upon your government be carried on in the manner and under the regulations prescribed in our said proclamation.

East Florida: 1763—Rev.

West Florida: 1763—Rev.

Quebec: 1763—1775.

#### 691. ENCOURAGE ST. VINCENT NATIVES TO ADHERE TO BRITISH

And whereas we have been informed that the native inhabitants of our island of St. Vincent have made proposals for submitting themselves to us in shaking off their pretended dependence on the French; it is our will and pleasure that you give the said inhabitants all possible encouragement that they may accordingly put themselves under our protection and government, and renounce any such dependence on the French, whether in time of war or peace forever hereafter.

Barbados: 1707—67.

#### 692. ENCOURAGE ALL NATIVES TO SEEK BRITISH PROTECTION

You are also to give the like encouragement to the natives of any of our colonies under your government or the countries thereunto adjoining to quit the enemy's protection and put themselves under ours, and to make it known as far as you can to all those people that are not yet under our government that upon application made to the governors of such of our plantations as lie nearest to them, they shall be received into our protection and enjoy all freedom and security.

A—Omit to . . . ours and substitute: “to put themselves under our protection”.

Barbados: 1707-15; 1715-67 A.

### 693. OBSERVE TREATY WITH CARIB INDIANS

And whereas nothing can more effectually tend to the welfare and prosperity of our island of St. Vincent than a continuance of that peace and friendship with the Caribs established by the treaty of the 17th February, 1773; it is our will and pleasure and you are hereby strictly enjoined to preserve and hold sacred on your part all the several stipulations and conditions of the said treaty with that justice and good will which ought never to be violated; requiring and exacting at the same time a reciprocal observance on the part of the Caribs of all the several stipulations and conditions which in virtue of the abovementioned treaty they on their part are bound to fulfil.

St. Vincent: 1776-Rev.

## PART XII

### RELIGION AND MORALS

#### 694. PROTECTION AND ENCOURAGEMENT OF ESTABLISHED CHURCH

You shall take especial care that God Almighty BE devoutly and duly served THROUGHOUT your GOVERNMENT, the Book of Common Prayer as by law established read each Sunday and holy day, and the Blessed Sacrament administered ACCORDING to the rites of the Church of England. You shall be careful that the churches already built there be well and orderly kept and that more be built as that province shall by God's blessing be improved; and that besides a competent maintenance to be assigned to the minister of each ORTHODOX church, a convenient house be built at the common charge for each minister AND A COMPETENT PROPORTION of land assigned him for a glebe and exercise of his INDUSTRY. AND you are to take care that the parishes be so limited and settled as you shall find most convenient for the accomplishing this good work.

A—Omit from beginning through BE and substitute: "And that God Almighty may be more inclined to bestow his blessing upon us and you in the improvement of that our colony, you shall take especial care that He be".

B—Omit THROUGHOUT . . . GOVERNMENT and substitute: "in all Protestant churches and chapels throughout our said province in which divine service is performed according to the rites of the Church of England". Omit from ACCORDING to the end.

C—Omit from You to the end.

D—Omit ORTHODOX.

E—Omit AND . . . INDUSTRY.

F—Omit from AND to the end.

G—Omit A COMPETENT PROPORTION and substitute: "one hundred acres".

H—Omit PROPORTION . . . INDUSTRY and substitute: "portion of glebe assigned him".

J—Omit from AND to the end.

K—After INDUSTRY add: "And you are to make particular inquiry whether the several acts of our colony, for the support of the min-

istry be put in execution and to take care that they be duly observed".

Bahamas: 1729—Rev. E.	New Jersey: 1702—Rev.
Barbados: (§ 695); 1702—Rev.	New York: 1686—88 D; 1690—1753; 1753—Rev. J.
Bermuda: (§ 695), 1702—Rev.	North Carolina: 1730—Rev.
Dominica: 1770—Rev. C.	Nova Scotia: 1749—Rev.
East Florida: 1763—Rev. C.	Quebec: 1763—75 C; 1775—Rev. B.
Georgia: 1754—Rev. J.	St. Vincent: 1776—Rev. C.
Grenada: 1763—71 C; 1771—Rev.	South Carolina: 1720—Rev.
Jamaica: (§ 695); 1689—Rev.	Virginia: 1679—83 A, D, G, J; 1683— 1702 A, D, G, K; 1702—10 G, K; 1710— Rev.
Leeward Is: (§ 695); 1689—99; 1699— 1702 K; 1702—Rev.	West Florida: 1763—Rev. C.
Maryland: 1691—1703 A, D, F; 1703— 15.	
New Hampshire: 1761—Rev. J.	

### 695. SUFFICIENT STIPENDS FOR MINISTERS

And you are to endeavor with the assistance of the council that good and sufficient stipends and allowances be made and ascertained unto the MINISTERS of every parish.

A—Before MINISTERS add: "orthodox".

Barbados: 1680—1702; (§ 694).	Leeward Is: 1686—99; 1699—1702 A;
Bermuda: 1686—1702; (§ 694).	(§ 694).
Jamaica: 1681—1702; (§ 694).	

### 696. ENCOURAGEMENT OF RELIGION

And whereas nothing can more effectually promote the peace and happiness of our subjects there and impress upon their minds a just sense of religion and morality than an uniform and regular observance of those rites and duties which our holy religion require, you will therefore have a very particular attention to this important object; and to that end you shall take especial care that God Almighty be devoutly and duly served throughout your government, the Book of Common Prayer as by law established read each Sunday and holy day; and the Blessed Sacrament administered according to the rites of the Church of England.

You shall be careful that the churches, hereafter to be built within our said island be well and orderly kept and that besides a competent maintenance to be assigned to the minister of each orthodox

church, a convenient house be built at the public charge for each minister; and you are in an especial manner to take care that one hundred acres of land for the site of a church and as a glebe for a minister of the Gospel and thirty for a schoolmaster be duly reserved in a proper part of every township, conformable to the directions and conditions annexed to our order in council of the 26th of August, 1767, hereinbefore referred to.

St. John: 1769—Rev.

### 697. PREFERRING MINISTERS TO BENEFICES

You are not to prefer ANY minister to any ecclesiastical benefice in our said province without a certificate from the RIGHT Reverend Father in God, the Bishop of LONDON, of his being conformable to the doctrine and discipline of the Church of England, AND OF a good life and conversation; AND IF any person already preferred to a benefice shall appear to you to give scandal either by his doctrine or manners, you are to use the BEST means for the removal of him, AND TO supply the vacancy in such manner as we have directed.

A—After ANY add: “Protestant”.

B—Omit RIGHT . . . LONDON and substitute: “Most Reverend the Lord Archbishop of Canterbury”.

C—Omit RIGHT . . . LONDON and substitute: “Commissioners for exercising the episcopal jurisdiction within our city and diocese of London for the time being”.

D—After LONDON add: “or the Commissioners for exercising the episcopal jurisdiction within our city and diocese of London for the time being”.

E—After LONDON add: “during his exercising the episcopal jurisdiction within our city and diocese of London or the Commissioners for exercising the episcopal jurisdiction within our said city and diocese of London for the time being”.

F—After LONDON add: “or some other bishop”.

G—Omit from AND OF to the end.

H—Omit from AND IF to the end.

J—Omit BEST and substitute: “proper and usual”.

K—Omit from AND TO to the end.

Bahamas: 1729–33; 1733—Rev. K.

Barbados: 1680–1702 G; 1702–21; 1721–

22 F; (§ 698); 1722—Rev. K.

Bermuda: 1686–90 C, G; 1690–98 G;

1698–1702 H; 1702–28; 1728—Rev. K.

Dominica: 1770—Rev. A, K.

East Florida: 1763—Rev. A, K.

Georgia: 1754—Rev. J, K.

Grenada: 1763–71 A, K; 1771—Rev. K.

Jamaica: 1678–87 G; 1687–89 D, G;

<sup>1</sup> 1689-1701 G; 1701-18; 1718-Rev. K.	Nova Scotia: 1749-64 K; 1764-Rev.
Leeward Is: 1686-99 E, G; 1699-1721; 1721-Rev. K. <sup>1</sup>	A, K.
Maryland: 1691-1715.	Quebec: 1763-Rev. A, K.
New Hampshire: 1761-Rev. J, K.	St. John: 1769-Rev. K.
New Jersey: 1702-20; 1720-27 F; (§ 698); 1727-58 K; 1758-Rev. J, K.	St. Vincent: 1776-Rev. A, K.
New York: 1686-88 B; 1690-1720; 1720- 27 F; (§ 698); 1727-Rev. J, K.	South Carolina: 1720-30 F, J; (§ 698); 1730-Rev. J.
North Carolina: 1730-Rev. J.	Virginia: 1679-83 G; 1683-1738; 1738- Rev. J, K.
	West Florida: 1763-Rev. A, K.

## 698. CERTIFICATES OF BISHOP OF LONDON ALONE VALID

Whereas by our instructions to you for the government of our said province of —, dated the — day of —, in the — year of our reign, you are empowered by the first part of the — article thereof <sup>2</sup> to prefer any minister to any ecclesiastical benefice in that province who produces a certificate from the Right Reverend Father in God, the Lord Bishop of London, *or some other bishop*, of his being conformable to the doctrine and discipline of the Church of England and of a good life and conversation; it is nevertheless our will and pleasure that you do not prefer any minister to any ecclesiastical benefice in that province without a certificate from the Right Reverend Father in God, the Lord Bishop of London, of his being conformable to the doctrine and discipline of the Church of England and of a good life and conversation. AND whereas by the — article of our said instructions,<sup>3</sup> you are empowered to admit schoolmasters coming from this kingdom to keep school in the province of — by virtue of your own license, in case persons with licenses from the said Bishop of London shall be wanting there; it is also our will and pleasure that no person be henceforward admitted to keep school in that province without the license of the said Bishop of London.

A—Omit from AND to the end.

Barbados: Nov. 30, 1721.

New York: Nov. 30, 1721.

New Jersey: Nov. 30, 1721 A.<sup>4</sup>

South Carolina: Nov. 30, 1721.

<sup>1</sup> The Leeward Islands instructions of 1721 were submitted by the Board of Trade in form F like some others of the same time, but the Privy Council committee eliminated the added words. *Cal. State Paps., Col., 1720-21*, §§ 654, 667, 696; *Acts, Privy Coun., Col., 1720-45*, § 19. See below, § 698.

<sup>2</sup> See above, § 697, form F.

<sup>3</sup> See below, § 711, form E.

<sup>4</sup> In the draft of this circular instruction entered in C. O. 324: 10, p. 439, the text

### 699. MINISTERS TO BE MEMBERS OF VESTRIES (I)

And also our pleasure is that in the direction of all church affairs the ministers be admitted into the respective vestries.

Jamaica: 1678-81; (§ 700).

New York: 1686-1701, (§ 700).

Virginia: 1679-90, (§ 700).

### 700. MINISTERS TO BE MEMBERS OF VESTRIES (II)

You are to give order forthwith, if the same be not already done, that every ORTHODOX minister within your government be one of the vestry in his respective parish, and that no vestry be held without him except in case of sickness or that, after notice of a vestry summoned, he omit to come.

A—Omit ORTHODOX and substitute: "Protestant".

Bahamas: 1729-Rev.

Barbados: 1680-1739.

Bermuda: 1686-Rev.

Dominica: 1770-Rev.

East Florida: 1763-Rev.

Georgia: 1754-Rev.

Grenada: 1763-Rev.

Jamaica: (§ 699), 1681-1718.

Leeward Is: 1686-Rev.

Maryland: 1691-1715.

New Hampshire: 1761-Rev.

New Jersey: 1702-Rev.

New York: (§ 699); 1701-Rev.

North Carolina: 1730-Rev.

Nova Scotia: 1749-Rev.

Quebec: 1763-75; 1775-Rev. A.

St. John: 1769-Rev.

St. Vincent: 1776-Rev.

South Carolina: 1720-Rev.

Virginia: (§ 699); 1690-Rev.

West Florida: 1763-Rev.

### 701. MINISTERS TO BE IN DUE ORDERS

You are to inquire whether there be any minister within your government who preaches and administers the Sacrament IN any orthodox church or CHAPEL without being in due orders, and to give an account thereof to the SAID Bishop of London.

A—Omit IN . . . CHAPEL.

B—Omit from SAID to the end and substitute: "Commissioners for exercising episcopal jurisdiction within our city and diocese of London for the time being".

is shown in full without the variation for New Jersey, but a note referring to the last part calls attention to the fact that "there is no such article as this in the New Jersey instructions". As printed in *N. J. Arch.* V, 23, the additional instruction omits this last part.

C—Add at end: “or the Commissioners for exercising episcopal jurisdiction within our city and diocese of London for the time being”.

Bahamas: 1729—Rev.	Maryland: 1691—1715.
Barbados: 1680—89 A; 1689—Rev.	New Hampshire: 1761—Rev.
Bermuda: 1686—90 A, B; 1690—98 A; 1698—Rev.	New Jersey: 1702—Rev.
Georgia: 1754—Rev.	New York: 1701—Rev.
Grenada: 1771—Rev.	North Carolina: 1730—Rev.
Jamaica: 1681—89 A; 1689—Rev.	St. John: 1769—Rev.
Leeward Is: 1686—99 A, C; 1699—Rev.	South Carolina: 1720—Rev.
	Virginia: 1690—Rev.

## 702. TABLE OF MARRIAGES

And you are to take especial care that a table of marriages established by the canons of the Church of England be hung up in **EVERY ORTHODOX** church and duly observed; AND you are to endeavor to get a law passed in the assembly of that province, if not already done, for the strict observation of the said table.

A—Omit from **EVERY** to the end and substitute: “all places of public worship according to the rites of the Church of England”.

B—Omit **ORTHODOX**.

C—Omit from **AND** to the end.

Bahamas: 1729—Rev.	New Jersey: 1702—Rev.
Barbados: 1680—89 B; 1689—Rev.	New York: 1686—1701 C; 1701—Rev.
Bermuda: 1686—Rev.	North Carolina: 1730—Rev.
Dominica: 1770—Rev. A.	Nova Scotia: 1749—64; 1764—Rev. C.
East Florida: 1763—Rev. A.	Quebec: 1763—Rev. A.
Georgia: 1754—Rev.	St. John: 1769—Rev.
Grenada: 1763—71 A; 1771—Rev.	St. Vincent: 1776—Rev. A.
Jamaica: 1681—89 B; 1689—Rev.	South Carolina: 1720—Rev.
Leeward Is: 1686—Rev.	Virginia: 1682—90 B; 1690—Rev.
Maryland: 1691—1715.	West Florida: 1763—Rev. A.
New Hampshire: 1761—Rev.	

## 703. BOOKS OF HOMILIES AND THIRTY-NINE ARTICLES (I)

And you are to carry over a sufficient number of Books of Homilies and Books of the Thirty-Nine Articles of the Church of England to be disposed of to every church, and you are to take care that they be duly kept and used therein.

Barbados: 1680-89.

Jamaica: 1681-89.

New York: 1686-88.

Virginia: 1682-90.

**704. BOOKS OF HOMILIES AND THIRTY-NINE  
ARTICLES (II)**

And you are to take care THAT Books of Homilies and Books of the Thirty-Nine Articles of the Church of England be disposed of in every orthodox church and that they be duly kept and used therein.

A—After THAT add: “a sufficient number of”.

Bermuda: 1686-90 A.

Leeward Is: 1686-89.

**705. DONATION OF ST. ANDREW'S PARISH, JAMAICA**

And whereas we are informed that a donation formerly made in St. Andrew's Parish in that our island has been diverted from the intended use, our will and pleasure is that you make inquiry concerning the same and take care that the said donation be rightly applied.

Jamaica: 1685-1703.

**706. AMENDMENT TO ACT ESTABLISHING ORTHODOX  
CLERGY**

Whereas we have been pleased to signify our approbation of an act passed in our province of North Carolina in May, 1765, for *Establishing an Orthodox Clergy*<sup>5</sup> and whereas no provision is made therein for supporting such clergymen as may be appointed to officiate during the suspension of any minister from serving the cure of such parish whereof he was incumbent, it is therefore our will and pleasure that you do recommend to the council and assembly of our said province to pass an act explanatory of the aforementioned act entitled *An Act for Establishing an Orthodox Clergy*, providing that when the incumbent of any parish shall be suspended the whole or any reasonable part of the proclamation money allowed to such incumbent shall be paid to such deserving

<sup>5</sup> *North Car. Col. Recs.*, XXIII, 660.

clergyman as shall be appointed to officiate during the incumbent's suspension.

North Carolina: (subm.) July 13, 1767.

### 707. VIRGINIA PALATINES NEED NOT SUPPORT ANGLICAN CHURCHES

Whereas a petition in the name of the ministers, elders, and members of a German Lutheran congregation settled in the Prince of Orange's County, formerly called Spotsylvania County, in Virginia hath been presented unto us,<sup>6</sup> praying for the reasons therein contained that we would be graciously pleased to direct our governor of that colony to recommend to our council and assembly there to renew that part of an act passed in the year 1720 for *Erecting Two New Counties Called Spotsylvania and Brunswick, and for Granting Certain Exemptions and Benefits to the Inhabitants Thereof,*<sup>7</sup> whereby the petitioners were exempted from the payment of all parochial dues and charges towards the parishes of St. George and St. Andrew for the space of ten years or so much of that term as they should keep and maintain a minister of their own; and we esteeming it highly reasonable that such German Protestants as shall settle waste lands in our plantations and bring over with them and at their own charge maintain a minister of their own language and religious profession, should be exempted from paying parochial dues and charges until they shall have a reasonable time and opportunity of learning the language, manners, and customs of our said colony; it is therefore our will and pleasure that you recommend in the most effectual manner to our said council and the assembly in Virginia that they renew the said law, so far as to exempt the said German Protestants from paying any parochial dues or charges to the said parishes of St. George and St. Andrew for the space of ten years if they shall so long continue to maintain a minister of their own.

Virginia: April 4, 1785.

### 708. BISHOP OF LONDON'S ECCLESIASTICAL JURISDICTION

And to the end the ecclesiastical jurisdiction of the said BISHOP OF LONDON may take place in the said province so far as conveniently

<sup>6</sup> *Acts, Privy Coun., Col., 1720-45, § 332.*

<sup>7</sup> *Hening, Statutes at Large, IV, 77.*

may be, we do think fit that you give all countenance and encouragement to the exercise of the same, EXCEPTING only the collating to benefices, granting licenses for marriages, and probate of wills, WHICH we have reserved to you our governor and to the commander in chief of our said province for the time being.

A—Omit BISHOP OF LONDON and substitute: "Archbishop of Canterbury".

B—Omit BISHOP OF LONDON and substitute: "Commissioners for the time being".

C—After LONDON add: "or the Commissioners for exercising the episcopal jurisdiction within our said city and diocese of London for the time being".

D—Omit WE . . . EXCEPTING and substitute § 709 as indicated there. Omit WHICH.

E—Add at end: "as far as by law we may".

Bahamas: 1729—Rev.	New Hampshire (§ 709); 1761—Rev.
Barbados: 1689—Rev.	New Jersey: 1702—Rev.
Bermuda: 1686—90 B; 1690—Rev.	New York: 1686—88 A; 1690—Rev.
Dominica: 1770—Rev.	North Carolina: 1730—33 E; 1733—54 D, E; 1754—Rev. E.
East Florida: 1763—Rev.	Nova Scotia: 1749—Rev.
Georgia: 1754—Rev.	Quebec: 1763—Rev.
Grenada: 1763—Rev.	St. John: 1769—Rev.
Jamaica: 1685—87; 1687—89 C; 1689— Rev.	St. Vincent: 1776—Rev.
Leeward Is: 1686—99 C; 1699—1733; 1733—53 D; 1753—Rev.	South Carolina: 1720—Rev. E.
Maryland: 1691—1715.	Virginia: 1685—Rev.
	West Florida: 1763—Rev.

## 709. BISHOP OF LONDON'S ECCLESIASTICAL COMMISSION

HAVING been graciously pleased to grant unto the Right Reverend Father in God, Edmund Lord Bishop of London, a commission under our great seal of Great Britain,<sup>8</sup> whereby he is empowered to exercise ecclesiastical jurisdiction by himself or by such commissaries as he shall appoint in our several plantations in America; it is our will and pleasure that you give all countenance and due encouragement to the said Bishop of London or his commissaries in the legal exercise of such ecclesiastical jurisdiction according to the laws of the province under your government and to the tenor of the

<sup>8</sup> The text of this commission, dated April 29, 1727, is printed in *N. Y. Col. Docs.*, V, 849—854, and A. L. Cross, *The Anglican Episcopate and the American Colonies*, pp. 289—293. For the origin of the commission see (in addition to information supplied by Cross) *Acts, Privy Coun., Col.*, 1720—45, § 74.

said commission, A copy whereof is hereunto annexed, and that you do cause the said commission to be forthwith registered in the public records of that our province.

A—Omit HAVING and substitute: “we have”.

B—Omit from A to the end.

Circular: Bahamas, Barbados, Bermuda, Jamaica, Maryland, New Jersey, New York, Nova Scotia, Pennsylvania, Virginia: April 28, 1730.

Bahamas: April 28, 1730–1759.

New Hampshire: 1730–61; (§ 708).

Leeward Is: 1733–53 A.<sup>9</sup>

North Carolina: 1730–38; 1733–54 A.<sup>9</sup>

Massachusetts: 1730–61.

South Carolina: 1730–38; 1738–55 B.

## 710. OFFICE OF ORDINARY IN GRENADA AND LEEWARD ISLANDS

Whereas some doubts have arisen whether THE powers of collating to benefices, granting licenses for marriages, and probate of wills, commonly called the office of ordinary, which we have BEEN graciously pleased to reserve to you by the 67th article of our instructions bearing date at Hampton Court the 20th day of July, 1733,<sup>10</sup> can be exercised by deputation from you to any other person within any of our said Leeward Caribbee Islands under your government, where you do not reside; AND whereas we have been informed that it has been a practice heretofore for our governors of our said Leeward Caribbee Islands to grant deputations for the exercise of the said office of ordinary to persons not vested with the other powers of government, whereby much inconvenience and prejudice have arisen to our SERVICE; it is therefore our express will and pleasure and you are hereby directed and required not to grant deputations for the exercise of the said powers commonly called the office of ordinary to any person or persons whatsoever in any of the islands under your government where you do not reside, excepting only to our lieutenant governor for the time being or other person who exercises all other powers of government conformable to the tenor of our commission and instructions.

A—After THE add: “afore-mentioned”. Omit BEEN . . . 1733 and substitute: “reserved to you our governor as aforesaid”.

B—Omit AND . . . SERVICE.

<sup>9</sup> See above, § 708 D.

<sup>10</sup> See above, § 708.

Grenada: 1771—Rev. A, B.

Leeward Is: April 30, 1751—1753; 1753—  
Rev. A.

## 711. LICENSING OF SCHOOLMASTERS

We do further direct that no schoolmaster BE henceforth permitted to come from England AND to keep school within the said province without the license of the said BISHOP OF LONDON, and that no other person now there or that shall come from other parts be admitted to keep school without your license first obtained.

A—Omit BE . . . AND and substitute: “who shall arrive in our said province from this kingdom be henceforward permitted”.

B—Omit BISHOP OF LONDON and substitute: “Archbishop of Canterbury”.

C—Omit BISHOP OF LONDON and substitute: “Commissioners for exercising the episcopal jurisdiction within our city and diocese of London”.

D—After LONDON add: “or the Commissioners for exercising ecclesiastical jurisdiction within our city and diocese of London for the time being”.

E—After LONDON add: “or some other bishop; but when such persons so qualified as above shall be wanting for the promotion of learning and good education, you may yourself license such other persons as you shall think qualified for such employments”.

Bahamas: 1729—Rev.

Barbados: 1689—1721; 1721—22 E;

New Jersey: 1758—Rev.

New York: 1686—88 B; 1690—1720; 1720—  
27 E; (§ 698); 1727—Rev.

Bermuda: 1686—90 C; 1690—Rev.

North Carolina: 1730—Rev.

Dominica: 1770—Rev.

Nova Scotia: 1749—Rev.

East Florida: 1763—Rev.

Quebec: 1763—Rev. A.

Georgia: 1754—Rev.

St. John: 1769—Rev.

Grenada: 1763—Rev.

St. Vincent: 1776—Rev.

Jamaica: 1685—87; 1687—89 D; 1689—  
1718; 1718—22 E; 1722—Rev.South Carolina: 1720—30 E; (§ 698);  
1730—Rev.Leeward Is: 1686—99 D; 1699—Rev.<sup>11</sup>

Virginia: 1685—Rev.

Maryland: 1703—15.

West Florida: 1763—Rev.

New Hampshire: 1761—Rev.

## 712. STIPEND FOR COMMISSARY BLAIR OF VIRGINIA

Whereas his Majesty has for some years past been pleased to allow unto Mr. James Blair, commissary for the Lord Bishop of London

<sup>11</sup> As in the case of § 697, the Leeward Islands instructions of 1721 were submitted by the Board of Trade in form E like some others of the same time, but the Privy Council committee eliminated the added words. *Cal. State Paps., Col., 1720—21, §§ 654, 667, 696; Acts, Privy Coun., Col., 1720—45, § 19.* See above, § 698.

in Virginia, one hundred pounds yearly out of his quit-rents in Virginia, which has hitherto been accordingly paid unto the said commissary by special warrant from the Lords Commissioners of His Majesty's Treasury, and his Majesty has been humbly moved that the governor of the said colony may for the future be directed by an instruction to pay unto the said Commissary Blair the said allowance of one hundred pounds yearly with the arrears thereof out of His Majesty's said quit-rents without further warrant; his Majesty's will and pleasure is that you accordingly give directions for the payment of the same out of his Majesty's quit-rents in that colony until further order.

Virginia: Sept. 20, 1698.

### 713. RELIGIOUS LIBERTY IN EARLY WEST INDIA ISLANDS

And because we are still content to give all possible encouragement to persons of different judgments and opinions in matters of religion to transport themselves thither with their stocks, and that they may not under pretense of scruples in conscience receive any discouragements there, you shall dispense with the taking the oaths of allegiance and supremacy to those that bear any part in the government (except the members and officers of the COUNCIL, to whom you are hereby particularly directed to administer the same), finding out some other way of securing yourself of their allegiance to us and our government there. AND in no other case you are to suffer any man to be molested or disquieted in the exercise of his religion, so he be content with a quiet and peaceable enjoyment of it, not giving therein offense or scandal to the GOVERNMENT. But we oblige you in your own house and family to the profession of the Protestant religion according as it is PRACTISED by us in ENGLAND, and the recommending of it to all others under your government as far as it may consist with the peace and quiet of the said islands.

A—Omit COUNCIL and substitute: "councils, and all judges and justices".

B—After COUNCIL add: "and all judges and justices". Omit PRACTISED . . . ENGLAND and substitute: "established in our Kingdom of England".

C—After COUNCIL add: "all judges and justices, and all members

of the general assembly". Omit PRACTISED . . . ENGLAND and substitute: "established in our Kingdom of England".

D—Omit AND . . . GOVERNMENT.

Barbados: 1672–73; 1673–80 A; (§ 714). Leeward Is. 1671–86 D, (§ 714).

Jamaica: 1670–74; 1674–78 B; 1678–81

C, (§ 714).

### 714. RELIGIOUS LIBERTY

You are to permit a liberty of conscience to all persons EXCEPT PAPISTS, so they be contented with a quiet and peaceable enjoyment of the same, not giving offense or scandal to the government.

A—Omit EXCEPT PAPISTS.

Bahamas: 1729–Rev.	New England: 1686–88 A; (§ 715).
Barbados: (§ 713); 1680–1707; 1710–Rev.	New Hampshire: 1692–Rev.
Bermuda: 1686–90 A; 1690–Rev.	New Jersey: 1702–Rev.
Georgia: 1754–Rev.	New York: (§§ 716, 715); 1690–Rev.
Jamaica: (§ 713); 1681–85; 1685–89 A; (§ 724); 1689–Rev.	North Carolina: 1730–Rev.
Leeward Is: (§ 713); 1686–89 A; 1689–Rev.	Nova Scotia: 1749–Rev. A.
Maryland: 1691–1703 A; 1703–15.	St. John: 1769–Rev.
Massachusetts: 1701–Rev.	South Carolina: 1720–Rev.
	Virginia. (§ 717); 1682–85; 1685–90 A; 1690–Rev.

### 715. RELIGIOUS LIBERTY IN NEW ENGLAND, 1688

You are to permit a liberty of conscience in matters of religion to all persons so they be contented with a quiet and peaceable enjoyment of it pursuant to our gracious declaration bearing date the fourth day of April in the third year of our reign, which you are to cause to be duly observed and put in execution.

New England: (§ 714); 1688–89.

### 716. RELIGIOUS LIBERTY IN NEW YORK, 1686

You shall permit all persons of what religion soever quietly to inhabit within your government without giving them any disturbance or disquiet whatsoever for or by reason of their differing opinions in matters of religion, provided they give no disturbance to the

public peace nor do molest or disquiet others in the free exercise of their religion.

New York: 1686-88; (§§ 715, 714).

### 717. RELIGIOUS LIBERTY IN EARLY VIRGINIA

And because we are willing to give all possible encouragement to persons of different persuasions in matters of religion to transport themselves thither with their stocks, you are not to suffer any man to be molested or disquieted in the exercise of his religion so he be content with a quiet and peaceable enjoyment of it, not giving offense or scandal to the government; but we oblige you in your own house and family to the profession of the Protestant religion according as it is established in our Kingdom of England and the recommending it to all others under your government as far as it may consist with the peace and quiet of our said colony.

Virginia: 1679-82; (§ 714).

### 718. SUSPEND EXECUTION OF A QUAKER IN VIRGINIA

And forasmuch in pursuance of our instruction permitting liberty of conscience to such persons as are contented with the peaceable enjoyment of it without giving offense to the government,<sup>12</sup> the Lord Culpeper hath stopped execution against one John Plaisants, a Quaker indicted in Henrico County for not coming to church,<sup>13</sup> you are to continue the said stop of execution against him until you make inquiry into the state of his case and upon representing the same unto us shall have received our pleasure thereupon.

Virginia: Dec. 3, 1683.

### 719. LICENSING OF PRINTING PRESSES AND PRINTING

Forasmuch as great inconveniences may arise by the liberty of printing in our said province, you are to provide by all necessary orders that no person KEEP any press for printing, NOR that any book, pamphlet, or other matters whatsoever be PRINTED without your especial leave and license first obtained.

<sup>12</sup> See above, § 717.

<sup>13</sup> See *Cal. State Paps., Col.*, 1681-85, § 1258.

A—Omit **KEEP** and substitute: “use”.

B—Omit **NOR . . . PRINTED** and substitute: “upon any occasion whatsoever”.

Maryland: 1691–98 A, B.

Massachusetts: 1691–1730.

New England: 1686–89.

New Hampshire: 1692–1702 A, B; 1702–  
15 B; 1715–30.

New Jersey: 1702–32.

New York: 1686–1732.

Virginia: Dec. 3, 1683–1698 A, B.

### 720. RELIGIOUS LIBERTY UNDER TREATY OF 1763

And whereas we have stipulated by the late definitive treaty of peace concluded at Paris the 10th day of February, 1763, to grant liberty of the Catholic religion to the SPANISH inhabitants of —, and that we will consequently give the most precise and effectual orders that our new Roman Catholic subjects in that province may profess the worship of their religion according to the rites of the Romish Church as far as the laws of Great Britain permit; it is therefore our will and pleasure that you do in all things regarding the said inhabitants conform with great exactness to the stipulations of the said treaty in this respect.

A—Omit **SPANISH**.

East Florida: 1763–73.

Grenada: 1763–71.

Quebec: 1763–75 A; (§ 726).

West Florida: 1763–Rev.

### 721. REPORT ON ROMAN CATHOLIC ORGANIZATIONS

You are as soon as possible to transmit to us by our Commissioners for Trade and Plantations an exact and particular account of the nature and constitution of the several religious communities of the Romish Church, their rights, claims, privileges, and property, and also the number, situation, and revenue of the several churches heretofore established in our said province together with the number of priests or curates officiating in such churches.<sup>14</sup>

East Florida: 1763–73.

Grenada: 1763–71.

Quebec: 1763–75.

West Florida: 1763–Rev.

<sup>14</sup> See also above, § 627, for a somewhat similar instruction for Nova Scotia, grouped with other instructions dealing with problems of safety created by the presence of the Acadians in that province.

### 722. NO ECCLESIASTICAL JURISDICTION FOR POPE

You are not to admit of any ecclesiastical jurisdiction of the See of Rome or any other foreign ecclesiastical jurisdiction whatsoever in the province under your government.

East Florida: 1763-73.

Grenada: 1763-71.

Quebec: 1763-75.

West Florida: 1763-Rev.

### 723. ENCOURAGEMENT TO PROTESTANTISM IN NEW PROVINCES

And to the end that the Church of England may be established both in principles and practice and that the said inhabitants may by degrees be induced to embrace the Protestant religion and their children be brought up in the principles of it, we do hereby declare it to be our intention, when the said province shall have been accurately surveyed and divided INTO townships, districts, precincts, or parishes, in such manner as shall be hereinafter directed,<sup>15</sup> all possible encouragement shall be given to the erecting Protestant schools in the said districts, townships, and precincts, by settling, appointing, and allotting proper quantities of land for that purpose and also for a glebe and maintenance for a Protestant minister and Protestant schoolmasters; and you are to consider and report to us by our Commissioners for Trade and Plantations by what other means the Protestant religion may be promoted, established, and encouraged in our province under your government.

A—After INTO add: "shires".

East Florida: 1763-73.

Grenada: 1763-71.

Quebec: 1763-75; (§ 727).

West Florida: 1763-67; 1767-Rev. A.

### 724. PROTECTION TO ROMAN CATHOLICS IN JAMAICA

You are to give all protection, countenance, and encouragement to our Roman Catholic subjects in our island of Jamaica, and particularly unto Doctor Churchill,<sup>16</sup> whom we have appointed our

<sup>15</sup> See especially §§ 630, 760, 766.

<sup>16</sup> For some account of the activities of Father Thomas Churchill, see Edward Long, *The History of Jamaica* (1774), I, 593-596; Estelle Frances Ward, *Christopher Monck, Duke of Albemarle* (London, 1915), pp. 268, 304, 327.

chief pastor over them in that our island, unto whom you are to give credit and assistance as there shall be occasion.

Jamaica: Aug. 15, 1687.

### 725. CATHOLICISM AND PROTESTANTISM IN NOVA SCOTIA

And whereas it has been represented unto us that the French Bishop of Quebec has exercised episcopal jurisdiction within our said province of Nova Scotia and excommunicated such of the French inhabitants as have intermarried with our Protestant subjects, you are therefore hereby directed and required to signify to him that however willing we may be to allow a liberty of conscience to our French subjects, yet as such excommunication will be prejudicial to the welfare and security of our said province and inconsistent with the directions given by us for the better ordering the same, we do expect that such exercise of episcopal authority shall cease for the future; and if any missionary priest shall presume to announce or declare any such excommunication within our said province, you shall cause such priest to be apprehended and upon legal proof of his crime punished in such manner as the laws of Great Britain do in that case direct.

And whereas it has been further represented unto us that the said Bishop of Quebec has made application to Paul Mascarene, Esquire, commander in chief of our said province for the time being, for leave to visit and confirm in our said province, you are therefore further to acquaint him as soon as you shall think proper that we will not admit of such visitation or any other act whatever of episcopal jurisdiction of the Church of Rome within any of our said dominions.

And to the end that the said French inhabitants may be converted to the Protestant religion and their children brought up in the principles of it, you are to give all possible encouragement to the educating Roman Catholic children in Protestant schools, and to grant two hundred acres of land in each township to every clergyman and one hundred to every schoolmaster that we shall think proper to send, in propriety, over and above the quotas allotted to them and their successors, free from the payment of any quit-rents for the space of ten years, at the expiration whereof to pay one shilling for every fifty acres; as also a further quantity of thirty

acres for every person of which their families shall consist on the like condition as other settlers, and to make further grants to them as their families shall increase or in proportion to their ability to cultivate the same.

And it is our further will and pleasure that such of the French inhabitants as shall from time to time embrace the Protestant religion shall have such lands as they have in actual cultivation confirmed to them by grants under the seal of our said province, free from the payment of any quit-rent for ten years, at the expiration of which term they shall be put upon the same footing with regard to quit-rents and taxes as our other Protestant subjects, and shall likewise have a further grant of ten acres on the same conditions for each person being a Protestant of which their families shall consist; and as a further means of bringing the said inhabitants to a due obedience to our government, you are also hereby directed to give all possible encouragement to intermarriages between them and our Protestant subjects.

Nova Scotia: 1749-64.

#### 726. POSITION OF ROMAN CATHOLIC CHURCH IN QUEBEC

The establishment of proper regulations in matters of ecclesiastical concern is an object of very great importance, and it will be your indispensable duty to lose no time in making such arrangements in regard thereto as may give full satisfaction to our new subjects in every point in which they have a right to any indulgence on that head; always remembering that it is a toleration of the free exercise of the religion of the Church of Rome, only, to which they are entitled, but not to the powers and privileges of it, as an established church, for that is a preference which belongs only to the Protestant Church of England.

Upon these principles, therefore, and to the end that our just supremacy in all matters ecclesiastical as well as civil may have its due scope and influence, it is our will and pleasure:

First, that all appeals to or correspondence with any foreign ecclesiastical jurisdiction, of what nature or kind soever, be absolutely forbidden under very severe penalties.

Secondly, that no episcopal or vicarial powers be exercised within

our said province by any person professing the religion of the Church of Rome but such only as are essentially and indispensably necessary to the free exercise of the Romish religion; and in those cases not without a license and permission from you under the seal of our said province, for and during our will and pleasure, and under such other limitations and restrictions as may correspond with the spirit and provision of the act of parliament for *Making More Effectual Provision for the Government of the Province of Quebec;*<sup>17</sup> and no person whatever is to have holy orders conferred upon him or to have the cure of souls without a license for that purpose first had or obtained from you.

Thirdly, that no person professing the religion of the Church of Rome be allowed to fill any ecclesiastical benefice or to have and enjoy any of the rights or profits belonging thereto that is not a Canadian by birth (such only excepted as are now in possession of any such benefice), and that is not appointed thereto by us or by or under our authority, and that all right or claim of right in any other person whatever to nominate, present, or appoint to any vacant benefice, other than such as may lay claim to the patronage of benefices as a civil right, be absolutely abolished. No person to hold more than one benefice, or at least not more than can reasonably be served by one and the same incumbent.

Fourthly, that no person whatever professing the religion of the Church of Rome be appointed incumbent of any parish in which the majority of the inhabitants shall solicit the appointment of a Protestant minister; in such case the incumbent shall be a Protestant and entitled to all tithes payable within such parish; but nevertheless the Roman Catholics may have the use of the church for the free exercise of their religion at such time as may not interfere with the religious worship of the Protestants; and in like manner the Protestant inhabitants in every parish where the majority of parishioners are Roman Catholics shall notwithstanding have the use of the church for the exercise of their religion at such times as may not interfere with the religious worship of the Roman Catholics.

Fifthly, that no incumbent professing the religion of the Church of Rome appointed to any parish shall be entitled to receive any tithes for lands or possessions occupied by a Protestant, but such tithes shall be received by such persons as you shall appoint and shall be reserved in the hands of our receiver general as aforesaid

<sup>17</sup> 14 Geo. III, c. 83.

for the support of a Protestant clergy in our said province to be actually resident within the same, and not otherwise, according to such directions as you shall receive from us in that behalf; and in like manner all growing rents and profits of a vacant benefice shall, during such vacancy, be reserved for and applied to the like uses.

Sixthly, that all persons professing the religion of the Church of Rome which are already possessed of or may hereafter be appointed to any ecclesiastical benefice or who may be licensed to exercise any power or authority in respect thereto do take and subscribe before you in council, or before such person as you shall appoint to administer the same, the oath required to be taken and subscribed by the aforesaid act of parliament passed in the fourteenth year of our reign, entitled *An Act for Making More Effectual Provision for the Government of the Province of Quebec in North America.*

Seventhly, that all incumbents of parishes shall hold their respective benefices during good behavior, subject however in cases of any conviction for criminal offenses, or upon due proof of seditious attempts to disturb the peace and tranquillity of our government, to be deprived or suspended by you with the advice and consent of a majority of our council.

Eighthly, that such ecclesiastics as may think fit to enter into the holy state of matrimony shall be released from all penalties to which they have been subjected in such cases by any authority of the See of Rome.

Ninthly, that freedom of burial of the dead in churches and church-yards be allowed indiscriminately to every Christian persuasion.

Tenthly, that the Royal Family be prayed for in all churches and places of holy worship in such manner and form as are used in this kingdom, and that our arms and insignia be put up not only in all such churches and places of holy worship but also in all courts of justice, and that the arms of France be taken down in every such church or court where they may at present remain.

Eleventhly, that the society of Romish priests called the Seminaries of Quebec and Montreal shall continue to possess and occupy their houses of residence and all other houses and lands to which they were lawfully entitled on the thirteenth of September, 1759,<sup>18</sup>

<sup>18</sup> The date of the battle of the Plains of Abraham and Montcalm's notice of his intention to capitulate.

and it shall be lawful for those societies to fill up vacancies and admit new members according to the rules of their foundations and to educate youth in order to qualify them for the service of parochial cures as they shall become vacant. It is nevertheless our will and pleasure that not only these seminaries but all other religious communities, so long as the same shall continue, be subject to visitation by you, our governor, or such other person or persons as you shall appoint for that purpose, and also subject to such rules and regulations as you shall with the advice and consent of our council think fit to establish and appoint.

Twelfthly, it is also our will and pleasure that all other religious seminaries and communities (that of the Jesuits only excepted) do, for the present and until we can be more fully informed of the true state of them and how far they are or are not essential to the free exercise of the religion of the Church of Rome as allowed within our said province, remain upon their present establishment; but you are not to allow the admission of any new members into any of the said societies or communities, the religious communities of women only excepted, without our express orders for that purpose. That the Society of Jesuits be suppressed and dissolved and no longer continued as a body corporate and politic and all their rights, possessions, and property shall be vested in us for such purposes as we may hereafter think fit to direct and appoint. But we think fit to declare our royal intention to be that the present members of the said society as established at Quebec shall be allowed sufficient stipends and provisions during their natural lives; that all missionaries amongst the Indians, whether established under the authority of or appointed by the Jesuits, or by any other ecclesiastical authority of the Romish Church, be withdrawn by degrees and at such times and in such manner as shall be satisfactory to the said Indians and consistent with the public safety, and Protestant missionaries appointed in their places; that all ecclesiastical persons whatsoever of the Church of Rome be inhibited upon pain of deprivation from influencing any person in the making a will, from inveigling Protestants to become Papists, or from tampering with them in matter of religion, and that the Romish priests be forbid to inveigh in their sermons against the religion of the Church of England, or to marry, baptize, or visit the sick, or bury any of our Protestant subjects, if a Protestant minister be upon the spot.

### 727. ENCOURAGE PROTESTANT MINISTERS AND SCHOOLMASTERS

You are at all times and upon all occasions to give every countenance and protection in your power to such Protestant ministers and schoolmasters as are already established within our said province or may hereafter be sent thither, to take care that such stipends and allowances as we may think fit to appoint for them be duly paid, that the churches already appropriated or which may hereafter be appropriated to the use of Divine Worship according to the rites of the Church of England as by law established be well and orderly kept, and, as the number of Protestants shall by God's blessing increase, to lay out new parishes in convenient situations and set apart and appropriate proper districts of land therein for the site of churches and parsonage houses and for glebes for the ministers and schoolmasters.

Quebec: (§ 728); 1775-Rev.

### 728. PREVENTION OF VICE AND IMMORALITY (I)

You are to take care that drunkenness and debauchery, swearing and blasphemy, be discountenanced and punished; and FOR the further discountenance of vice and encouragement of virtue and good living (THAT by such example the infidels may be invited and desire to partake of the Christian RELIGION) you are not to admit any person to public trusts and employments in the province under your government whose ill fame and conversation may occasion scandal.

A—Omit from FOR to the end and substitute: "that none be admitted to public trust and employment whose ill fame or conversation may bring scandal thereupon".

B—Omit THAT . . . RELIGION.

Barbados: 1672-1702 A; 1702-28; (§ 729).	Massachusetts: 1691-1728 A; (§ 729). New England: 1686-89 A.
Bermuda: 1686-1702 A; 1702-28 B; (§ 729).	New Hampshire: 1692-1728 A; (§ 729). New Jersey: 1702-27; (§ 729).
Jamaica: 1670-80 A; 1701-2 A; 1702-27. (§ 729).	New York: 1686-1703 A; 1703-27; (§ 729).
Leeward Is: 1671-1702 A; 1702-28; (§ 729).	South Carolina: 1720-30; (§ 729).
Maryland: 1691-1703 A; 1703-15.	Virginia: 1679-1702 A; 1702-28; (§ 729).

## 729. PREVENTION OF VICE AND IMMORALITY (II)

The Right Reverend Father in God, Edmund Lord Bishop of London, having presented a petition to his late Majesty humbly beseeching him to send instructions to the governors of all the several plantations in America that THEY cause all laws already made against blasphemy, profaneness, adultery, fornication, polygamy, incest, profanation of the Lord's Day, swearing, and drunkenness IN their respective governments to be vigorously executed; and we thinking it highly just that all persons who shall offend in any of the particulars aforesaid should be prosecuted and punished for their said offenses; it is therefore our will and pleasure that you take due care for the punishment of the forementioned VICES, and that you earnestly recommend it to the assembly of — to provide effectual laws for the restraint and punishment of all such of the aforementioned vices against which no laws are yet provided, and also you are to use your endeavors to RENDER the laws in being more effectual by PROVIDING for the punishment of the aforementioned vices by presentment upon oath to be made to the temporal courts by the church wardens of the several parishes AT proper times of the YEAR to be appointed for that purpose. And for the further discouragement of vice and encouragement of virtue and good living (that by such example the infidels may be invited and desire to embrace the Christian religion) you are not to admit any person to public trusts and employments in the said province under your government whose ill fame and conversation may occasion scandal. And it is our further will and pleasure that you recommend to the assembly to enter upon proper methods for the erecting and maintaining of schools in order to the training up of youth to reading and to a necessary knowledge of the principles of religion.<sup>19</sup>

A—Omit from beginning through THEY and substitute: "And it is our further will and pleasure that in order to suppress as much as in you lies every species of vice and immorality, you forthwith do". Omit IN . . . VICES, and substitute: "to be vigorously put in execution in every part of your government and that you do take due care for the punishment of these and every other vice and immorality". Omit RENDER . . . PROVIDING, and substitute: "provide".

B—Omit AT . . . YEAR, and substitute: "or other proper officers".

<sup>19</sup> This article was first submitted by the Board of Trade, June 6, 1727, as an additional circular instruction, but the death of George I necessitating new general instructions, it was issued therein instead. C. O. 324: 11, pp. 40-41.

Bahamas: 1729—Rev.	New Hampshire: (§ 728); 1728—Rev. B.
Barbados: (§ 728); 1728—Rev.	New Jersey: (§ 728); 1727—Rev.
Bermuda: (§ 728); 1728—Rev.	New York: (§ 728); 1727—Rev.
Georgia: 1754—Rev.	North Carolina: 1730—Rev.
Grenada: (§ 730); 1771—Rev.	Nova Scotia: 1749—64; 1764—Rev. A.
Jamaica: (§ 728); 1727—Rev.	St. John: 1760—Rev.
Leeward Is: (§ 728); 1728—Rev.	South Carolina: (§ 728); 1730—Rev.
Massachusetts: (§ 728); 1728—Rev. B.	Virginia: (§ 728); 1728—Rev.

### 730. PREVENTION OF VICE AND IMMORALITY (III)

And it is our further will and pleasure that, in order to suppress as much as in you lies every species of vice and immorality, you forthwith do cause all laws already made against blasphemy, profaneness, adultery, fornication, polygamy, incest, profanation of the Lord's Day, swearing, and drunkenness, to be vigorously put in execution in every part of your government; and that you take due care for the punishment of these and every other vice and immorality by presentment upon oath to be made to the temporal courts by the church wardens of the several parishes at proper times of the year to be appointed for that purpose; and for the further discouragement of vice and encouragement of virtue and good living (THAT by such examples the infidels may be invited and persuaded to embrace the Christian RELIGION) you are not to admit any persons to public trusts and employments in the province under your government whose ill fame and conversation may occasion scandal.

#### A—Omit THAT . . . RELIGION.

Dominica: 1770—Rev. A.	Quebec: 1763—Rev.
East Florida: 1763—Rev.	St. Vincent: 1776—Rev. A.
Grenada: 1763—71; (§ 729).	West Florida: 1763—Rev.

### 731. CONVERSION OF NEGROES AND INDIANS

And you are also with the assistance of the council AND ASSEMBLY to find out the best means to facilitate and encourage the conversion of Negroes AND INDIANS to the Christian religion.

#### A—Omit AND ASSEMBLY.

#### B—Omit AND INDIANS.

#### C—Omit INDIANS and substitute: "other slaves".

D—Add at end: “wherein you are to have a due caution and regard to the property of the inhabitants and safety of the colony.”

E—Add at end: “more especially you are to use your endeavors with the assembly that they make provision for the maintenance of some ministers to inhabit amongst the INDIANS in order to instruct them, as also to prevent their being seduced from their allegiance to us by French priests and Jesuits.”

F—The same as E, but before INDIANS in addition, add: “fore-mentioned Five Nations of”.

Bahamas: 1729—Rev. C.	Massachusetts: 1691—1757.
Barbados: 1680—89 C, D; 1689—1702 C; 1702—28; 1728—Rev. C.	New England: 1686—89 A. New Hampshire: 1692—Rev.
Bermuda: 1686—1702 C; 1702—Rev.	New Jersey: 1702—Rev.
Georgia: 1754—Rev. E.	New York: 1686—1701 A; 1701—Rev. F.
Grenada: 1771—Rev. C.	North Carolina: 1730—Rev.
Jamaica: 1681—85 B, D; 1685—1701 B; 1701—18; 1734—Rev. C.	Nova Scotia: 1749—Rev. South Carolina: 1720—Rev.
Leeward Is: 1686—Rev. C.	Virginia: 1682—85 D; 1685—98 A; 1698—
Maryland: 1691—1715.	1756.

### 732. ENCOURAGE SOCIETY OF UNITAS FRATRUM IN LABRADOR

We have mentioned to you the fisheries upon the coast of Labrador as the main object of your attention,<sup>20</sup> but the commerce carried on with savages of that coast and the state and condition of those savages deserve some regard. The Society of Unitas Fratrum, urged by a laudable zeal for promoting Christianity, has already under our protection and with our permission formed establishments in the northern parts of that coast for the purposes of civilizing the natives and converting them to the Christian religion. Their success has been answerable to their zeal, and it is our express will and pleasure that you do give them every countenance and encouragement in your power, and that you do not allow any establishments to be made but with their consent within the limits of their possessions.

Quebec: 1775—Rev.

### 733. HUMANE TREATMENT OF SERVANTS AND SLAVES

You shall endeavor to get a law passed, if not already DONE, for the restraining of any inhumane severity which by ill masters or

<sup>20</sup> See below, § 958.

overseers may be used towards their Christian servants AND THEIR slaves, AND THAT provision may be made therein that the willful killing of Indians and Negroes may be punished with death, and that a fit penalty be imposed for the maiming of them.

A—Omit from beginning through DONE, and substitute: “And that due encouragement may be given to such servants as shall be willing to transport themselves into our said colony, you shall take care to frame and transmit unto us a bill”.

B—Omit from beginning through OF, and substitute: “You are to use your best endeavors to restrain”. Omit from AND THAT to end.

C—Omit from AND THEIR to end.

D—Omit from AND THEIR to end and substitute: “or other slaves”.

Bahamas: 1729—Rev.

Barbados: 1673—1702 C; (§ 734); 1702—  
56.

Bermuda: 1686—1702 C; 1702—61.

Georgia: 1754—Rev. B.

Jamaica: 1681—1701 D; (§ 735); 1701—  
18.

Leeward Is: 1686—99 C; 1699—1761.

Maryland: 1691—1715.

Massachusetts: 1701—61.

New England: 1686—89.

New Hampshire: 1692—1728.

New Jersey: 1702—61.

New York: 1686—88; 1701—61.

North Carolina: 1730—61.

Nova Scotia: 1756—64.

South Carolina: 1720—Rev.

Virginia: 1679—82 A, C; 1682—1761.

### 734. PROVIDE PENALTY FOR KILLING NEGROES IN BARBADOS

And whereas in the laws passed in that our island concerning Negroes there is no sufficient punishment provided for those that shall willfully and wantonly kill a Negro, our will and pleasure is that you propose to the next assembly the enacting some further penalty that may prevent the same.

Barbados: May 3, 1684; (§ 733).

### 735. SEVERER PENALTY FOR KILLING NEGROES IN JAMAICA

And whereas among other laws passed in Jamaica the fifth of September, 1683, an act for regulating of slaves was transmitted unto his late Majesty, who did not think fit to confirm the same, by reason of a clause therein contained whereby such as wantonly and willfully kill a Negro are only liable to a fine and three months'

imprisonment, which penalty's not being equal to the guilt might encourage the willful shedding of blood, for which it is necessary some better provision be made to deter all persons from such acts of cruelty; you are therefore to signify the same to the next assembly and further to propose to them the enacting a stricter clause in that behalf, which may be fit for our royal confirmation.

Jamaica: 1685-89; (§ 733).

### 736. ALTERATION IN PRAYERS FOR THE ROYAL FAMILY, 1728<sup>21</sup>

Whereas we were pleased by our order in council of the fifteenth day of June, 1727, (a copy whereof is herewith annexed) to declare our royal pleasure that in all the prayers, litanies, and collects for the Royal Family, instead of the words "His Royal Highness George Prince of Wales, the Princess, and their issue, and all the Royal Family", there should be inserted "Our Gracious Queen Caroline, the royal issue, and the rest of the Royal Family"; and whereas the same hath not been hitherto signified to the governors of our plantations in America, our royal will and pleasure is that in all the prayers, litanies, and collects for the Royal Family to be used within our province of —, under your government, instead of the words "His Royal Highness George Prince of Wales, the Princess, and their issue, and all the Royal Family", be inserted "Our Gracious Queen Caroline, the royal issue, and the rest of the Royal Family"; and for the better notice hereof in our said province it is our further will and pleasure that you cause the same to be published forthwith in the several parish churches and other places of Divine Worship within the said province, and that you take care that obedience be paid thereto accordingly.

Circular: Bahamas, Connecticut, Jamaica, Leeward Is., Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Virginia: June 8, 1728.

Bermuda: 1728-38.<sup>22</sup>

<sup>21</sup> Occasioned by the death of George I and the accession of George II, June 11, 1727.

<sup>22</sup> A memorandum following the entry of this circular instruction in C. O. 324: 36, pp. 77-78, states that it was incorporated in the general instructions to the governors of Barbados, Bermuda, and Nova Scotia, but it is not to be found in the instructions to Worsley of Barbados or Phillips of Nova Scotia.

737. ALTERATION IN PRAYERS FOR THE ROYAL FAMILY,  
1736<sup>23</sup>

Whereas we were pleased by our order in council of the twenty-ninth of April last to declare our pleasure that in the morning and evening prayers, in the litany, and in all other parts of the public service as well in the occasional offices as in the Book of Common Prayer where the Royal Family is appointed to be particularly prayed for, the following form and order should be observed: "Our Gracious Queen Caroline, their Royal Highnesses Frederick Prince of Wales, the Princess of Wales, the Duke, the Princesses, and all the Royal Family"; and to the end that the same form and order may be observed in all our plantations in America, it is our express will and pleasure that you cause the same to be forthwith published in the several parish churches and other places of Divine Worship within our said province under your government, and that you take care that obedience be paid thereto accordingly.

Circular: Bahamas, Barbados, Bermuda, Georgia, Jamaica, Leeward Is., Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Nova Scotia, South Carolina, Virginia: June 1, 1736.

738. ALTERATION IN PRAYERS FOR THE ROYAL FAMILY,  
1737<sup>24</sup>

Whereas it was ordered in council the twenty-first day of November, 1737, that in the morning and evening prayers, in the litany, and in all other parts of the public service as well as in the occasional offices as in the Book of Common Prayer where the Royal Family is appointed to be particularly prayed for, the following form and order should be observed: "Their Royal Highnesses, Frederick Prince of Wales, the Princess of Wales, the Duke, the Princesses, and all the Royal Family"; to the end that the same form and order may be observed in all our plantations in America, it is our will and pleasure that you cause the same to be forthwith published in the several parish churches and other places of Divine Worship within our said province under your government and that you take care that obedience be paid thereto accordingly.

<sup>23</sup> Occasioned by the marriage of Frederick Prince of Wales on April 27, 1736.

<sup>24</sup> Occasioned by the death of Queen Caroline, Nov. 20, 1737.

Circular. Bahamas, Barbados, Bermuda, Georgia, Jamaica, Leeward Is., Massachusetts, New Jersey, New York, North Carolina, Nova Scotia, South Carolina, Virginia: Dec. 9, 1737.<sup>25</sup>

739. ALTERATION IN PRAYERS FOR THE ROYAL FAMILY,  
1760<sup>26</sup>

Whereas we have been pleased by our royal order in council of the twenty-seventh of October instant (a copy whereof is hereunto annexed) to declare our pleasure that in all the prayers and litanies and collects for the Royal Family, instead of the words: "Their Royal Highnesses, George Prince of Wales, the Princess Dowager of Wales, the Duke, the Princesses, and all the Royal Family", there should be inserted: "Her Royal Highness the Princess Dowager of Wales and all the Royal Family"; our will and pleasure therefore is that in all the prayers, litanies, and collects for the Royal Family to be used within our province of —, under your government, instead of the words: "Their Royal Highnesses, George Prince of Wales, the Princess Dowager of Wales, the Duke, the Princesses, and all the Royal Family", there be inserted: "Her Royal Highness the Princess Dowager of Wales and all the Royal Family"; and for the better notice hereof in our said province it is our further will and pleasure that you cause the same to be forthwith published in the several parish churches and other places of Divine Worship within the said province and that you take care that obedience be paid thereto accordingly.

Circular: Bahamas, Barbados, Bermuda, Connecticut, Georgia, Jamaica, Leeward Is., Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Nova Scotia, Pennsylvania, Rhode Island, South Carolina, Virginia: Oct. 31, 1760.

740. ALTERATION IN PRAYERS FOR THE ROYAL FAMILY,  
1761<sup>27</sup>

Whereas we have been pleased by our order in council of the eleventh day of September instant to declare our pleasure that in

<sup>25</sup> On the death of Frederick Prince of Wales, the proper changes in the Prayers were made by order in council, March 22, 1750, in practically identical form as above. Copies of this order were sent to the governors but apparently no instruction was prepared. The same was true upon the creation of George as Prince of Wales, the order in council being dated April 24, 1751. C. O. 923: 13.

<sup>26</sup> Occasioned by the death of George II and the accession of George III, Oct. 25, 1760.

<sup>27</sup> Occasioned by the marriage of George III, September 8, 1761.

the morning and evening prayers, in the litany, and in all other parts of the public service as well in the occasional offices as in the Book of Common Prayer, where the Royal Family is appointed to be particularly prayed for, the following form of words should be used, viz: "Our Gracious Queen Charlotte, Her Royal Highness the Princess Dowager of Wales, and all the Royal Family"; our will and pleasure therefore is that in all the prayers, litanies, and collects where the Royal Family is prayed for and which are used within our province of — under your government, the same form and order of words be used, as follows, viz: "Our Gracious Queen Charlotte, Her Royal Highness the Princess Dowager of Wales, and all the Royal Family"; and for the better notice hereof in our said province it is our further will and pleasure that you cause the same to be forthwith published in the several parish churches and other places of Divine Worship within our said province and that you take care that due obedience be paid thereto accordingly.

Circular: Bahamas, Barbados, Bermuda, Cape Breton, Connecticut, Georgia, Guadeloupe, Jamaica, Leeward Is., Maryland, Massachusetts, Montreal, New Hampshire, New Jersey, New York, North Carolina, Nova Scotia, Pennsylvania, Quebec, Rhode Island, South Carolina, Virginia: Sept. 29, 1761.

#### 741. ALTERATION IN PRAYERS FOR THE ROYAL FAMILY, 1762<sup>28</sup>

Whereas we have been pleased by our order in council dated the seventeenth day of September last to declare our pleasure that in the morning and evening prayers, in the litany, and in all other parts of the public service as well in [sic] the Book of Common Prayer where the Royal Family is appointed to be particularly prayed for, the following form of words should be used, viz: "Our Gracious Queen Charlotte, Their Royal Highnesses George Prince of Wales, the Princess Dowager of Wales, and all the Royal Family"; our will and pleasure therefore is that in all the prayers, litanies, and collects where the Royal Family is prayed for and which are used within our province of — under your government, the same form and order of words be used as follows, viz: "Our Gracious Queen Charlotte, Their Royal Highnesses George Prince of Wales, the Princess Dowager of Wales, and all the Royal Family"; and for the

<sup>28</sup> Occasioned by the birth of Prince George (later George IV), August 12, 1762, and his subsequent creation as Prince of Wales.

better notice hereof in our said province it is our further will and pleasure that you cause the same to be forthwith published in the several parish churches and other places of Divine Worship within our said province and that you take care that due obedience be paid thereto accordingly.

Circular: to "the governors of the several colonies and plantations in America":<sup>29</sup>  
Sept. 27, 1762.

742. ALTERATION IN PRAYERS FOR THE ROYAL FAMILY,  
1772<sup>30</sup>

Whereas it hath been declared by the Lords of our Privy Council by their order in council of the eighth of February instant that in the morning and evening prayers, in the litany, and in all other parts of the public service as well in the occasional offices as in the Book of Common Prayer, where the Royal Family is appointed to be prayed for, the following form and order should be observed, viz: "Our Gracious Queen Charlotte, His Royal Highness George Prince of Wales, and all the Royal Family"; our will and pleasure therefore is that in all the prayers, litanies, and collects for the royal family to be used within our province of — under your government the following form and order should be observed, viz: "Our Gracious Queen Charlotte, His Royal Highness George Prince of Wales, and all the Royal Family"; and for the better notice hereof in our said province it is our further will and pleasure that you cause the same to be forthwith published in the several parish churches and other places of Divine Worship within the said province and that you take care that obedience be paid thereto accordingly.

Circular: Bahamas, Barbados, Bermuda, Connecticut, Dominica, East Florida Georgia, Grenada, Jamaica, Leeward Is., Maryland, Massachusetts, Newfoundland, New Hampshire, New Jersey, New York, North Carolina, Nova Scotia Pennsylvania, Quebec, Rhode Island, St. John, Senegambia, South Carolina West Florida, Virginia: Feb. 17, 1772.

<sup>29</sup> No list of the specific colonies to which this instruction was sent has been found.

<sup>30</sup> Occasioned by the death of the Princess Dowager of Wales, February 8, 1772

## PART XIII LAND

### 743. AGREEMENT ON BERMUDA COMPANY'S LANDS AND DEBTS

WHEREAS, upon vacating the charter of the late Bermuda Company, several of the members thereof have made humble application unto us that we would be pleased to confirm the sale of eight shares of the public lands for the satisfying of debts formerly contracted by that company amounting to the sum of £828, in lieu whereof they have offered to relinquish their claim to the public lands which they had lately endeavored to place in trustees for the payment of those debts, and to all the guns, Negroes, and other estate belonging to the company;<sup>1</sup> but as we did not think fit to alienate any part of our crown lands, which we find necessary to be applied to the security and defense of those islands; so for the removing of all pretenses we have agreed that one third part of all such levies or taxes upon tobacco or otherwise as shall be hereafter imposed within those islands be set apart to satisfy the said debts proportionably till they shall be extinguished; provided always that the members of the said company and their trustees do first quit-claim to all pretensions abovementioned and release us from all demands whatsoever relating to those islands, which they have promised forthwith to put in execution. And we accordingly hereby signify the same unto you, to the end that, upon receiving our further orders, you cause the agreement to be performed on our part; and that in the meantime you take possession of all the said guns, Negroes, and other estate formerly belonging to that company and apply the same to their respective uses in the support and defense of that our government, and that you become accountable for the same unto us, as also that you give effectual order that one third part of all

<sup>1</sup> See *Cal. State Paps., Col.*, 1681-85, §§ 1893, 1978, 2012, 2047; *Acts, Privy Coun., Col.*, 1680-1720, § 163.

levies and taxes as aforesaid be reserved in the hands of our treasurer to be disposed of in such manner as we shall hereafter direct.

Bermuda: 1686-90.

#### 744. INVESTIGATE MEMORIAL ON BERMUDA COMPANY LANDS

And whereas a memorial has been presented unto us touching the public lands in our said islands, together with the copy of a certificate from the late company concerning several shares of land formerly belonging to Cornelius Holland, Owen Row, and Sir John Danvers, five shares whereof have been conveyed by letters patents under the great seal of England to Hugh Noden<sup>2</sup> of London, merchant, you are to examine the said memorial, a copy whereof you will receive herewith, and to return a speedy account of the matters therein contained unto us for the further signification of our pleasure thereupon.

Bermuda: 1690-1700.

#### 745. TITLES OF FRENCH AND SPANISH INHABITANTS

It is our further will and pleasure that all and every the SPANISH inhabitants in our said province, who are now possessed of lands within the said province in virtue of grants or concessions made before the signing of the preliminary articles of peace on the third day of November, 1762, do, within such limited time as you in your discretion shall think fit, register the several grants or other deeds or titles, by which they hold or claim such lands, in the secretary's office; which said grants, deeds, or other titles shall be entered at large in the said office so that the particular quantity of land, its site and extent, the conditions upon which it is granted, either as to rents, services, or cultivation, may appear fully and at length. And in case it shall appear upon a strict and accurate examination of the said grants and title deeds, to be taken in such manner as you shall think proper, that any of the grantees or persons claiming

<sup>2</sup> This name should probably read Woden; see *Cal. State Paps., Col.*, 1685-88, § 1620.

lands under such grants and title deeds are in possession of more land than is contained within such grants or other concessions, or that the terms and CONDITIONS have not been complied with, agreeable to what is stipulated in such grants or CONCESSIONS; it is our will and pleasure that you forthwith represent the same to us by our Commissioners for Trade and Plantations, to the end you may receive such directions thereupon as the nature and circumstances of the case shall WARRANT.

A—Omit SPANISH and substitute: "French". After CONDITIONS add: "upon which the lands were granted". Omit WARRANT and substitute: "appear to require".

B—After CONCESSIONS add: "or has been required by any ordinance or arrêt of the French king".

East Florida: 1763-73.  
Grenada: 1763-71 B.

Quebec: 1763-75 A.  
West Florida: 1763-Rev.

#### 746. FLORIDA LANDS CLAIMED UNDER SPANISH GRANTS

Whereas it hath been represented unto us that very large and exorbitant quantities of land lying within the limits of our province of [East Florida, West Florida] have been claimed by some of our subjects upon pretense that such lands have been purchased of the subjects of the crown of Spain, and in consequence of such purchase conveyed or granted by the said Spaniards to such claimant; and whereas the admitting such claims and allowing the claimants to enter into possession of the lands so pretended to be purchased, granted, or conveyed, until the said purchases and grants have been approved by us upon a proper examination into the titles under which the subjects of Spain held or claimed the lands so purchased or granted is neither consistent with our just rights to the territories ceded to us by the crown of Spain nor the public interests in respect to the speedy and effectual settlement of this valuable and important country; it is therefore our will and pleasure and you are hereby strictly charged and directed not to admit any claims which shall be made to any lands whatever within the province under your government upon pretense of purchases made of or grants or conveyances from the subjects of Spain, nor to suffer any such claims to be entered upon record, excepting only such as, having been first

presented unto us, shall have received our royal approbation upon a proper examination of them by our law officers here and such approbation shall have been regularly and properly signified to you.

It is our further will and pleasure that you do immediately upon your arrival in your government, or as soon as the more urgent and pressing affairs entrusted to your care will permit, make or cause to be made the most exact and careful inquiry into all claims to any lands within our said province upon pretense of purchases of or grants or conveyances from the subjects of Spain as aforesaid, and that you do transmit to us by our Commissioners for Trade and Plantations a full account thereof, expressing in the most particular manner the situation, limits, and quantity of acres of the land so claimed and the nature of the titles under which they were held or claimed by the Spaniards of whom they were so purchased or by whom they were granted or conveyed.

East Florida: Apr. 23, 1764-1773.

West Florida: Apr. 23, 1764-Rev.

#### 747. CONFIRMATION OF GEORGIA TRUSTEES' GRANTS

Whereas it hath been represented unto us that the late trustees of our colony of Georgia have, in consequence of the powers given them by our royal charter, made grants of lands within our said colony, and the president and court of assistants of our said colony did, as well before as since the surrender of the said charter, make allotments of lands under certain restrictions, not exceeding five hundred acres to any one person; in order therefore that we may be truly informed of the state of such grants and allotments and what persons have paid their quit-rents and what have not, you are as soon as possible AFTER YOUR ARRIVAL to direct the proper officers entrusted with the registers and records of such grants and allotments to lay them before you for your inspection and examination, and when you shall have made a careful and diligent inquiry into the true state of the said grants and allotments you are then to give public notice by proclamation or otherwise as you shall judge most proper that all such persons as hold or possess any lands within our said colony by virtue of grants from the late trustees or from persons acting under their authority or by virtue of allotments made by the president and court of assistants not exceeding five hundred

acres to any one person, shall be finally released from all the conditions of such grants and allotments, and the arrears of quit-rents due thereon totally remitted on condition that they do within a certain time to be specified in such public notice appear by themselves or sufficient attorneys before you and our council of our said colony and take out fresh grants in our name under the public seal of our said colony for the lands they claim to be in possession of under such grants and allotments, subject to the payment of two shillings sterling for every hundred acres so granted, to commence within two years from the date of the grant, and that the said grantees shall likewise be obliged to clear and cultivate at the rate of five acres per year for every hundred acres contained in their grants, in failure of which such grants shall be void; provided, nevertheless, and it is our express will and pleasure that nothing herein contained shall extend or be construed to extend to establish or confirm a right in any person or persons to lands which they claim to hold by virtue of grants or allotments which grants and allotments have been forfeited by a non-compliance with the terms and conditions thereof or which they claim to hold under allotments of more than five hundred acres to any one person.

And it is our further will and pleasure that you do transmit unto our Commissioners for Trade and Plantations a full and particular account of all such grants and allotments as have been forfeited by a non-compliance with the terms and conditions of them, as also of all such allotments as do contain more than five hundred acres to any one person, in order to be laid before us for our further directions thereupon. And in case any person or persons claiming to hold lands from the late trustees or from persons acting under their authority, or under allotments made by the president and court of assistants of our said colony shall neglect or decline to accept of fresh grants upon the foregoing terms and conditions, you are to transmit to our Commissioners for Trade and Plantations the names of all such persons so neglecting or declining to take out fresh grants, with an account of the quantity of land which they claim to hold under such grants or allotments, to be in like manner laid before us for our further directions therein.

A—Omit AFTER YOUR ARRIVAL.

Georgia: 1754-58; 1758-Rev. A.

748. LIEUT. GOV. USHER NOT TO MEDDLE WITH  
ALLEN CLAIMS (I)<sup>3</sup>

Whereas John Usher, Esquire, whom we have been pleased to constitute our lieutenant governor of our province of New Hampshire, is near related by marriage to Samuel Allen, Esquire, the proprietor of the said province; and whereas there are matters in dispute and causes depending between the said Allen and others our good subjects concerning titles of land in that province; we have thought it requisite to direct that the said Usher shall not intermeddle in any manner with the appointing of judges or juries or otherwise in matters relating to such disputes between the said Allen and any person or persons whatsoever. And our will and pleasure is, and we do accordingly hereby expressly order that you our governor and chief of our said province do give all necessary directions in the appointing of judges, juries, and other officers for the trial and decision of such causes, and that you do take particular care in inspecting whatsoever relates thereunto, to the end that impartial justice may be administered to all our good subjects therein concerned.

New Hampshire: July 26, 1703.

749. LIEUT. GOV. USHER NOT TO MEDDLE WITH  
ALLEN CLAIMS (II)<sup>3</sup>

Whereas there are matters in dispute and causes depending between Samuel Allen, Esquire, proprietor of our province of New Hampshire, and others our good subjects concerning titles of land in that province; and whereas you are nearly related by marriage to the said Allen; we have thought it requisite to order that Joseph Dudley, Esquire, our governor in chief of our said province, do give all necessary directions in the appointing of judges, juries, and other officers for the trial and decision of such causes, and that he do take particular care in inspecting whatever relates thereunto; and our will and pleasure is and we do hereby expressly command you not to intermeddle in any manner with the appointment of judges or juries or otherwise in matters relating to such disputes be-

<sup>3</sup> The first of these two articles, §§ 748 and 749, was sent to Governor Dudley; the second was sent simultaneously to Lieutenant Governor Usher, the proprietor's son-in-law.

tween the said Allen and any person or persons whatsoever, to the end that impartial justice may be administered to all our good subjects therein concerned.

New Hampshire: July 26, 1703.

### 750. CONFIRMATION OF LAND TITLES IN NEW JERSEY

Our will and pleasure is that for the better quieting the minds of our good subjects, inhabitants of our said province, and for settling the properties and possessions of all persons concerned therein, either as general proprietors of the soil under the first original grant of the said province made by the late King Charles the Second to the late Duke of York, or as particular purchasers of any parcels of land from the said general proprietors, you shall propose to the general assembly of our said province the passing of such act or acts whereby the right and property of the said general proprietors to the soil of our said province may be confirmed to them, according to their respective rights and title, together with all such quit-rents as have been reserved or are or shall become due to the said general proprietors from the inhabitants of our said province, and all such privileges as are expressed in the conveyances made by the said Duke of York, excepting only the right of government, which remains in us. And you are further to take care that by the said act or acts so to be passed the particular titles and estates of all the inhabitants of that province and other purchasers claiming under the said general proprietors be confirmed and settled as of right does appertain under such obligations as shall tend to the best and speediest improvement or cultivation of the same; provided always that you do not consent to any act or acts to lay any tax upon lands that lie unprofitable.

New Jersey: 1702—Rev.

### 751. JERSEY PROPRIETORS ALONE MAY BUY LAND FROM INDIANS

You shall not permit any other person or persons besides the said general proprietors or their agents to purchase any land whatsoever from the Indians within the limits of their grant.

New Jersey: 1702—Rev.

### 75<sup>2</sup>. ASSIST AGENTS OF JERSEY PROPRIETORS

You are to permit the surveyors and other persons appointed by the forementioneed proprietors of the soil of that province for surveying and recording the surveys of land granted by and held of them to execute accordingly their respective trusts; and you are likewise to permit, and if need be, aid and assist such other agent or agents as shall be appointed by the said proprietors for that end to collect and receive the quit-rents which are or shall be due unto them from the particular possessors of any parcels or tracts of land from time to time; provided always that such surveyors, agents, or other officers appointed by the said general proprietors do not only take proper oaths for the due execution and performance of their respective offices or employments and give good and sufficient security for their so doing, but that they likewise take the oaths APPOINTED by act of parliament to be taken instead of the oaths of allegiance and supremacy, and the oath mentioned in the foresaid act, entitled *An Act to Declare the Alteration in the Oath Appointed to be Taken by the Act Entitled An Act for the Further Security of His Majesty's Person and the Succession of the Crown in the Protestant Line and for Extinguishing the Hopes of the Pretended Prince of Wales and All Other Pretenders and Their Open and Secret Abettors, and for Declaring the Association to be Determined*; <sup>4</sup> as also MAKE and subscribe the Declaration AFORESAID; and you are more particularly to take care that all lands purchased from the said proprietors be cultivated and improved by the possessors thereof. And you are to take care that no fees be exacted or taken by any of the officers under you for the grants of lands made by the agents of the proprietors, which agents are to deliver over to you in council duplicates of all such grants to be registered in our council books.

A—Omit MAKE . . . AFORESAID and substitute: “the forementioneed Test”. Omit from AND to the end.

B—Omit APPOINTED . . . Determined and substitute: “mentioned in the foresaid act, entitled *An Act for the Further Security of His Majesty's Person and Government and the Succession of the Crown in the Heirs of the Late Princess Sophia Being Protestants and for Extinguishing the Hopes of the Pretended Prince of Wales and His Open and Secret Abettors*”.<sup>5</sup>

New Jersey: 1702-8 A; 1708-15; 1715-Rev. B.

<sup>4</sup> 1 Anne, stat. 1, c. 16.

<sup>5</sup> 1 Geo. I, stat. 2, c. 13.

### 753. ROYAL OFFICIALS TO TAKE NO FEES FOR PROPRIETARY GRANTS

It is likewise our will and pleasure that no fees be exacted or taken by any of the officers under you for the grants of lands made by the agents of the proprietors; and the said agents are to deliver over to you in council duplicates of all such grants to be registered in our council books.<sup>6</sup>

New Jersey: April 20, 1705; (§ 752).

### 754. GRANT NO LANDS IN CHAMPLAIN COUNTRY

Whereas sundry persons, proprietors under titles derived from the crown of France, when that crown was in possession of Canada, of lands on that part of Lake Champlain now lying within our province of New York, have humbly represented unto us that several parts of the said lands, so claimed, have already been granted to other persons by letters patents under the seal of our said province of New York, and have therefore humbly prayed that a proceeding so prejudicial to their rights and pretensions may receive our royal disapprobation; and whereas it appears both just and equitable that the claims of persons under such titles as aforesaid should not be affected without the fullest examination thereof, it is therefore our will and pleasure and you are hereby directed and required in no case to make any grants of lands so claimed as aforesaid upon Lake Champlain to the northward of Crown Point within our province of New York until the petitions and proposals for grants of any part or parts of such lands shall have been transmitted to one of our principal secretaries of state in order to be laid before us and until our approbation thereof shall have been signified to you our said governor or to the commander in chief of our said province for the time being.

A—After SAID add: “lieutenant”.<sup>7</sup>

New York: Dec. 4, 1769–1770 A; 1770–Rev.

<sup>6</sup> Other parts of this additional instruction are in §§ 164 and 118, above.

<sup>7</sup> This additional instruction was drafted in July, 1769, with intent to send it to Governor Moore, but word having been received of Moore's death before the dispatch of the instruction, it was sent to Lieutenant Governor Colden with the necessary change in phraseology.

## 755. NORTH CAROLINA LAND TITLES ANTEDATING 1727

And when you shall have made a careful and diligent inquiry to find out the present possessors of lands within our said province claiming to hold the same either under proprietary grants or by virtue of warrants or grants derived from us or our royal predecessors, you are then to give public notice by proclamation, or such other manner as shall be thought proper, summoning and requiring all persons claiming to hold lands under grants from the proprietors antecedent to the first day of January, 1727,<sup>8</sup> to appear within a reasonable time before you and our council of our said province in order to make out their legal titles to such land. And it is our will and pleasure that the titles of all such persons as are in actual possession of lands by virtue of patents from the proprietors before the first day of January, 1727, and of which regular surveys have been made and returned be and are hereby confirmed on condition that they do register their patents within six months and likewise take out fresh patents subject to the rules and conditions required by these our instructions for all such land as they shall appear to be in possession of, over and above the quantity expressed in the patents from the proprietors.

And it is our further will and pleasure that in the cases of persons in possession of lands which they claim to hold by virtue of patents under the late lords proprietors of Carolina antecedent to the said first day of January, 1727, which patents they allege to be destroyed by fire or otherwise and which they may not be able to make full proofs nor of the conditions on which such patents were passed, you do permit such persons to take out new grants at the accustomed and proper office for the lands, subject to the payment of such quit-rent and to such conditions of cultivation and improvement as are required by these instructions to you.<sup>9</sup> But with respect to persons who shall make full proof of their having had patents from the lords proprietors before the said first of January, 1727, and of the conditions on which such patents were granted, you are to suffer all such to hold and enjoy their lands according to the terms and

<sup>8</sup> In the surrender by seven of the eight Carolina proprietors, confirmed by act of parliament, 2 Geo. II, c. 34, there were saving clauses preserving the rights of those to whom lands or offices had been granted before Jan. 1, 1727/8; see above, § 535. The date 1727, throughout §§ 755 and 756, is Old Style.

<sup>9</sup> See especially §§ 802, 803, below.

conditions of such patents, notwithstanding the same may have been destroyed by fire or otherwise.

North Carolina: 1754-Rev.

### 756. NORTH CAROLINA PROPRIETARY LAND TITLES SINCE 1727

And our further will and pleasure is that you do require all persons claiming lands within our said province by virtue of patents derived from the said lords proprietors since the first of January, 1727, to produce to you the said patents and that you do cause a regular endorsement to be put therein expressing that such patentee is bound to the payment of such quit-rent and to the performance of such conditions of cultivation and improvement as are required by these our instructions to you, and you are to declare to all such patentees that such your endorsement shall be evidence of their respective rights, provided the same be regularly registered in the office of our auditor within six months next after the date of such endorsement; and in case it shall appear to you that any such patentee is in possession of a greater quantity of land than is contained and expressed in his patent from the said lords proprietors, you are to cause the lands held by such patentee to be resurveyed. And if he shall refuse to admit of such resurvey, it is our will and pleasure that you do in such case certify the same to our attorney general of our said province to the end that such patent may be forfeited by due course of law. It is nevertheless our will and pleasure that nothing in these instructions shall extend or be construed to establish a right in any person or persons to lands claimed under such grants from the proprietors subsequent to the date of our purchase, which grants were entered in the secretary's books after advice received in the province of such purchase.

A—Omit from It to the end.

North Carolina: 1754-61; 1761-Rev. A.

### 757. TO SET OFF CARTERET'S PORTION OF NORTH CAROLINA

Whereas our right trusty and well beloved councillor, John, Lord Carteret, by his petition hath humbly represented to us that,

under letters patent granted by our royal predecessor King Charles the Second, he is entitled to one full undivided eighth part of the provinces of Carolina and also of the arrears of quit-rents and other duties, reckonings, claims, and demands, and hath humbly prayed that his said eighth part of the soil of the said provinces and territories may be set out and allotted to him in such part of the said provinces and territories as shall be agreed on between such persons as we shall be pleased to appoint for us and such persons as the said John, Lord Carteret, shall appoint on his part, to have, hold and enjoy the same forever hereafter in severalty to the petitioner, his heirs, and assigns, together with all and every the same royalties, powers, liberties, franchises, and privileges (the government thereof and of the said provinces of Carolina only excepted) as far as concerns such eighth part to be so allotted to the petitioner as he is entitled unto under the said letters patent and an act of parliament passed in the second year of our reign for establishing an agreement with seven of the lords proprietors of Carolina for the surrender of their title and interest in that province to us in case such division or allotment was not or should not be made, and under the like quit-rents proportionably as is mentioned in the said letters patents, according to the petitioner's proportion or eighth part thereof; and thereupon the said John, Lord Carteret, humbly offered and proposed to surrender to us, our heirs, and successors, his share and interest of and in the government of the said provinces or territories, and to convey, release, and confirm to us, our heirs, and successors, the other seven parts of the said provinces; we having been pleased to take the said petition into our royal consideration, together with the opinion of a committee of our Privy Council and of our Commissioners for Trade and Plantations thereupon, did, by our order in council, dated the fifteenth day of September, 1742 (a copy whereof is hereto annexed),<sup>10</sup> direct that our respective governors of South and North Carolina, or either of them as we should hereafter be pleased to direct, should nominate and appoint proper persons to be commissioners on our behalf, not exceeding five, who in conjunction with a like number of persons to be appointed by the said John, Lord Carteret, as commissioners on his behalf, were by our said order in council empowered to set out and allot to the said John, Lord Carteret, one full eighth part of the said provinces of Carolina, in such part or parts of the said provinces and territories as should

<sup>10</sup> See *Acts, Privy Coun., Col., 1720-45*, § 199.

be agreed upon by the commissioners so to be appointed as aforesaid; and that the said commissioners should make a return of their proceedings thereon to us in council within eighteen months after the date of our said order, and that they should at the same time transmit to us a plan containing a full and exact description of the same lands together with the respective boundaries thereof, in order to our signifying our royal pleasure, in case we should approve thereof for conveying the same to the said John, Lord Carteret, in such manner as should be advised by our counsel learned in the law, provided the said John, Lord Carteret, should at the same time make a surrender to us of all his pretensions to the government of the said provinces of Carolina and should convey, release, and confirm to us, our heirs, and successors, the other seven parts of the said provinces; and that for the better guidance of the commissioners so to be appointed on our behalf, the said commissioners should follow and observe such directions and instructions as might be found necessary to be given them from time to time by us or those who act under our royal authority; and whereas we have thought proper that the said full eighth part of the provinces of Carolina to be allotted to the said John, Lord Carteret, as aforesaid should be run out in one entire separate district in our province of North Carolina, we have thought fit to give you the following instructions for the effectual and immediate execution of our pleasure herein:

You are forthwith to appoint such persons as you shall think proper on our behalf, not exceeding five, to meet and confer with a like number of persons to be appointed on the part of John, Lord Carteret, at such convenient place as shall be mutually agreed upon between the said commissioners, on or before the second day of August next, in order to proceed to the allotting and setting out to him one full and entire eighth part of the provinces of Carolina; and you are to take care that the said commissioners do complete the same on or before the second day of January next and make a return of their proceedings therein to us in our Privy Council, by the first ship that shall sail for Great Britain after they shall have perfected the above allotment so as to be laid before us in the time limited by our said order in council; and that they do also transmit to us at the same time a plan containing an exact description of the said full eighth part so to be allotted and set out together with the respective boundaries thereof, as also duplicates of their said plan and proceedings by the next conveyance; and that they do employ

proper persons for the carrying these our instructions into execution.

And for the better guidance and direction of our said commissioners in making a division of one full eighth part of the provinces of Carolina as aforesaid in one entire separate district, and in running out, allotting, and planning the same, it is our pleasure that the whole of the said full eighth part of the said provinces be run out in one entire separate district in that part of the province of North Carolina which lies next adjoining and is contiguous to our province of Virginia; the meets and bounds whereof being in the most exact manner ascertained will greatly facilitate the setting out of the said eighth part of the provinces aforesaid.

And for defraying the necessary expenses attending the execution of these our orders we do hereby direct that the governor and council of the province of North Carolina for the time being do make such allowances to the persons to be employed on our part in the carrying these our instructions into execution as our governor and council shall think reasonable, and that our receiver general of the said province do pay what our said governor and council shall so allow on their warrant or order directed to him for that purpose, which will be his authority and discharge for the same.

North Carolina: April 25, 1743.

#### 758. GRANVILLE LANDS EXEMPT FROM NORTH CAROLINA SYSTEM

And whereas we have been graciously pleased by our letters patent under our great seal of Great Britain bearing date the 17th of September in the eighteenth year of our reign,<sup>11</sup> to give and grant unto John, Lord Carteret, now Earl Granville, one full eighth part of the provinces of Carolina in one entire separate district in the province of North Carolina, together with the reversion and reversions, remainder and remainders, yearly and other rents, issues, and profits of and in, to and out of the said one eighth part of the said provinces and territories, as by the said recited letters patent, relation being thereunto had, may more fully and at large appear; it is therefore our will and pleasure that the orders, regulations, and directions contained in the nineteen foregoing articles of these in-

<sup>11</sup> See *N. C. Col. Recs.*, IV, 655-663.

structions<sup>12</sup> do not extend or be construed to extend to such lands as are contained within our said grant to the said Earl Granville.

North Carolina: 1754-Rev.

### 759. PROCEDURE IN GRANTING LAND

And whereas nothing can more effectually tend to the further improving and settling the said province, the security of the property of our subjects, and the advancement of the revenue OF QUITRENTS, THAN the establishing a regular and proper method of proceeding with respect to the passing of grants of land within the SAME; it is therefore our will and pleasure that all and every person and persons who shall for the future apply to you for any grants of land shall previous to obtaining the same make it appear before you in council that they are in a condition to cultivate and improve the same by settling thereon in proportion to the quantity of acres a sufficient number of WHITE persons or NEGROES. And in case you shall upon a consideration of the circumstances of the person applying for such grants, think it advisable to pass the same, in such case you are to cause a warrant to be drawn up directed to the surveyor general or other proper officer empowering him or them to make a faithful and exact survey of the lands so petitioned for and to return the said warrant within six months at furthest from the date thereof with a plot or description of the land so surveyed thereunto annexed; provided that you do take care that before any such warrant is issued as aforesaid, a docquet thereof be entered in the AUDITOR's office; and when the warrant shall be returned by the said surveyor or other proper officer, the grant shall be made out in due form and the terms and conditions required by these our instructions be particularly and expressly mentioned in the respective grants; and it is our further will and pleasure that the said grants shall be registered within six months from the date thereof in OUR SECRETARY's office there and a docquet thereof be also entered in our auditor's office THERE, or that in default thereof such grants shall be void, copies of all which entries shall be returned regularly by the proper officer to our Commissioners of our Treasury and to our

<sup>12</sup> In 1754 the articles referred to include those here given as §§ 476, 755, 756, 759, 761, 763, 783, 784, 798, 799, 800, 802, 803, 843, 900. In 1761 are also included §§ 79 and 423, but § 900 is not included. Probably there was an error of reckoning on both occasions and §§ 79, 423, and 476 should not have been included in either case.

Commissioners for Trade and Plantations six months from the date thereof.

A—Omit from beginning through SAME [this preliminary passage being given in the New York instructions as part of § 843 below].

B—Omit OF QUITRENTS.

C—After THAN add: "the disposal of such lands as are our property upon reasonable terms and". Omit WHITE . . . NEGROES and substitute: "settlers, either servants or others".

D—After AUDITOR's add: "and register's". Omit OUR SECRETARY's and substitute: "the register's".

E—After THERE add: "in case such establishment shall take place in our said province".

East Florida: 1763-73 B, D, E; (§ 764).

Georgia: 1754-74 D, E; (§ 765).

New York: 1753-74 A; (§ 765).

North Carolina: 1754-74; (§ 765).

Nova Scotia: 1764-73 B, C, D; (§ 764).

Quebec: 1763-71 B, D, E; (§ 835).

South Carolina: 1755-74; (§ 765).

West Florida: 1763-74 B, D, E; (§ 765).

## 760. TERMS FOR LAND GRANTS IN NEW COLONIES

[1] And whereas great inconveniences have arisen in many of our colonies in America from the granting excessive quantities of land to particular persons who have never cultivated or settled it and have thereby prevented others more industrious from improving the same; in order therefore to prevent the like inconveniences for the future, you are to take especial care that in all grants to be made by you, by and with the advice and consent of our council, to persons applying for the same, the quantity be in proportion to their ability to cultivate; and you are hereby directed to observe the following directions and regulations in all grants to be made by you, viz:

[2] That one hundred acres of land be granted to every person being master or mistress of a family for himself or herself, and fifty acres for every white or black man, woman, or child of which such person's family shall consist at the actual time of making the grant; and in case any person applying to you for grants of land shall be desirous of taking up a larger quantity than the actual number of persons in his or her family would entitle such persons to take up, it is our will and pleasure and you are hereby allowed and permitted to grant unto every such person or persons such further quantity of land as they may desire, not exceeding one thousand acres over and

above what they are entitled to by the number of persons in their respective families; provided it shall appear to you that they are in a condition and intention to cultivate the same; and provided also that they do pay to the receiver of our quit-rents or to such other officer as shall be appointed to receive the same the sum of five shillings only for every fifty acres so granted on the day of the date of the grant.

[3] That all grantees be subject to the payment of two shillings STERLING for every hundred acres, to commence at the expiration of two years from the date of such grant, and to be paid yearly and every year, or in default of such payment the grant to be void.

[4] That every grantee, upon giving proof that he or she has fulfilled the terms and conditions of his or her grant, shall be entitled to another grant in the proportion and upon the conditions abovementioned.

[5] That for every fifty acres of land accounted plantable, each patentee shall be obliged within three years after the date of his patent to clear and work three acres at the least in that part of his tract which he shall judge most convenient and advantageous, or else to clear and drain three acres of swampy or sunken grounds or drain three of marsh, if any such be within the bounds of his grant.

[6] That for every fifty acres of land accounted barren, every patentee shall be obliged to put and keep on his land within three years after the date of his grant, three neat CATTLE, which number he shall be obliged to continue on his land until three acres for every fifty shall be fully cleared and improved.

[7] That if any person shall take up a tract of land wherein there shall be no part fit for present cultivation without manuring and improving the same, every such grantee shall be obliged within three years from the date of his grant to erect on some part of his land one good DWELLING-HOUSE, to contain at least twenty feet in length and sixteen in breadth; and also to put on his land the like number of neat CATTLE for every fifty acres.

[8] That if any person who shall take up any stony or rocky grounds not fit for planting or pasture shall within three years after the passing of his grant begin to employ thereon and so continue to work for three years then next ensuing in digging any STONE-QUARRY or other mine, one good and able hand for every hundred acres of such tract, it shall be accounted a sufficient cultivation and improvement.

[9] That every three acres which shall be cleared and worked as aforesaid, and every three acres which shall be cleared and drained as aforesaid, shall be accounted a sufficient seating, planting, cultivation, and improvement to save forever from forfeiture fifty acres of land in any part of the tract contained within the same patent; and the patentee shall be at liberty to withdraw his stock or to forbear working in any quarry or mine in proportion to such cultivation and improvement as shall be made upon the plantable lands or upon the swamps, sunken grounds, and marshes which shall be included in the same patent.

[10] That when any person who shall hereafter take up and patent any lands shall have seated, planted and cultivated or improved the said land or any part of it according to the directions and conditions abovementioned, such patentee may make proof of seating, planting, cultivation, and improvement in the general court OR IN THE COURT of the county, district, or precinct where such land shall lie and have such proof certified to the register's office and there entered with the record of the said patent, a copy of which shall be admitted on any trial to prove the seating and planting of such land.

[11] And lastly, in order to ascertain the true quantity of plantable and barren land contained in each grant hereafter to be made within our said province, you are to take especial care that, in all surveys hereafter to be made, every surveyor be required and enjoined to take particular notice according to the best of his judgment and understanding how much of the land so surveyed is plantable and how much of it is barren and unfit for cultivation and accordingly to insert in the survey and plot by him to be returned into the register's office the true quantity of each kind of land.

A—Omit paragraphs 1–4 and substitute: “Whereas by the 67th article of his Majesty’s instructions to you bearing date at — the — day of [August], 1754,<sup>18</sup> you are directed and required to take especial care in all grants of lands by you to be made within his Majesty’s colony of Georgia that all grantees be obliged by the terms of their respective grants to clear and cultivate at the rate of five acres per year for every hundred acres contained in their grants,

<sup>18</sup> See below, § 802. The exact date of the Georgia general instructions of 1754 is not known. They were approved by the Privy Council August 6, “being already prepared and recommended by the Committee on 5 Aug., the Governor being obliged to sail away”. *Acts, Privy Coun., Col., 1745–66*, p. 776.

in failure of which such grants shall be void; and whereas it has been represented to us that great part of the lands within the said colony being pine barren and totally unfit for cultivation, many difficulties and inconveniences may arise under such regulation as aforesaid; we do therefore in his Majesty's name hereby authorize and direct you to make and pass grants of lands within the said colony in such quantities and to such persons as by his Majesty's said instructions are particularly directed and described under the following terms and conditions of cultivation and improvement".

B—Omit STERLING (par. 3).

C—After CATTLE (pars. 6 and 7) add: "or six sheep or goats". After DWELLING-HOUSE (par. 7) add: "after the manner of Georgia building". After STONE-QUARRY (par. 8) add: "or coal".

D—Omit par. 3 and substitute: "That in every grant of land within our said province to be hereafter made by you, you do take especial care that a clause be inserted reserving to us, our heirs, and successors, a quit-rent of one halfpenny sterling per acre payable at the Feast of St. Michael which shall first happen after the expiration of two years from the date of the grant, and to be payable on every ensuing Feast of St. Michael or within fourteen days after."

E—Omit OR IN THE COURT (par. 10).

East Florida: 1763–64; (§§ 781, 764).

Georgia: (§ 802); Aug. 5, 1755–1758 A, C; 1758–74 B, C; (§ 765).

Nova Scotia: (§§ 824–7, 832, 834); 1764–74 E; (§§ 781, 764).

Quebec: 1763–71; (§ 835).

West Florida: 1763–64; (§ 781); 1767–74 D; (§ 765).

## 761. EQUITABLE DISTRIBUTION OF LAND

And it is our further will and pleasure that in all grants of land to be made by you as aforesaid, regard be HAD to the profitable and unprofitable acres, so that each grantee may have a proportionable number of one sort and the other, as LIKEWISE that the length of each tract of land to be hereafter GRANTED do not extend along the banks of any river but into the mainland that thereby the said grantees may have each a convenient share of what accommodation the said river may afford for navigation or otherwise.

A—Omit from beginning through HAD and substitute: "And for the more convenient and equal setting out of all lands to be granted within our said province of New York, our further will and pleasure is that you our governor, or the commander in chief of our said province for the time being, the collector of our customs, our secretary, and surveyor general of New York for the time being (the surveyor general always to be one) or any three or more of you and

them, do set out all lands to be hereafter granted, and that therein you have regard".

B—After LIKewise add: "that the breadth of each tract of land to be hereafter granted be one third the length of such tract and". Omit to . . . GRANTED.

East Florida: 1763–73 B; (§ 764).

Georgia: 1754–Rev. B.

New York: July 20, 1768–1753 A; 1753–74; (§ 765).

North Carolina: (§ 801); 1754–74; (§ 765).

Nova Scotia: 1756–73 B; (§ 764).

Quebec: 1763–71 B, (§ 835).

South Carolina: (§ 801); 1755–74; (§ 765).

West Florida: 1763–74 B; (§ 765).

## 762. PROCLAIM TERMS OF GRANTING OF LAND

And whereas it is necessary that all persons who may be desirous of settling in our said province should be fully informed of the terms and conditions upon which lands will be granted in our said province; you are therefore as soon as possible after your arrival to cause a publication to be made by proclamation or otherwise as you in your discretion shall think most advisable of all and every the foregoing terms, conditions, and regulations of every kind respecting the grants of lands,<sup>14</sup> in which proclamation it may be expedient to add some short description of the natural advantages of the soil and climate, and its peculiar conveniences for trade and navigation; and you are to take such steps as you shall think proper for the publishing such proclamation in all the colonies in North America.

East Florida: 1763–73; (§ 764).

Nova Scotia: 1764–73; (§ 764).

Quebec: 1763–71; (§ 835).

West Florida: 1763–74; (§ 765).

## 763. ANNUAL INSPECTION OF LAND GRANTS

And it is our further will and pleasure that the surveyor general or such other person or persons as you shall think proper to appoint do once in every year or oftener as occasion shall require, inspect the state of all grants of land made by you and make report thereof to you, specifying whether the conditions therein contained have or have not been complied with or what progress has been made towards fulfilling the same.

<sup>14</sup> See §§ 759–761, 766, 861, 952, 962.

A—After you add: "in writing".

B—Add at end: "and you are annually to transmit copies of such reports to our Commissioners for Trade and Plantations".

East Florida: 1763—Rev. B.

Quebec: 1763—71 A, B; (§ 835).

Georgia: 1754—Rev.

West Florida: 1763—Rev. B.

North Carolina: 1754—Rev.

#### 764. SUSPEND LAND GRANTING EXCEPT TO VETERANS

Whereas it hath been represented unto us that the state and condition of our colonies and plantations in America do, both in justice and expediency, require that the authority for granting lands contained in the commission and instructions given to our governors in the plantation should be further regulated and restrained; and that the grantees of such lands should be subjected to other conditions than those at present prescribed in our said instructions; it is therefore our will and pleasure that for the present and until our further pleasure be signified, you, our governor of our said province, and the commander in chief of the said province for the time being, do forbear upon the pain of our highest displeasure and of being immediately removed from your and his office to issue any warrant of survey or to pass any patents for lands in the said province, or to grant any license for the purchase by private persons of any lands from the Indians without especial directions from us for that purpose, under our signet or sign manual or by our order in our Privy Council, excepting only in the case of such commissioned and non-commissioned officers and soldiers who are entitled to grants of land by virtue of our royal proclamation of the 7th of October, 1763,<sup>15</sup> to whom such grants are to be made and passed in the proportion and under the conditions prescribed in our said proclamation.<sup>16</sup>

East Florida: 1773—74; (§ 765).

Nova Scotia: 1773—74; (§ 765).

#### 765. RULES FOR SALE OF LAND, 1774

Whereas by our commission to you under the great seal of Great Britain bearing date the — of — in the — year of our reign, you

<sup>15</sup> See C. S. Brigham, *British Royal Proclamations Relating to America, 1603—1783 (Transactions and Collections of the American Antiquarian Society, XII)*, pp. 212—218.

<sup>16</sup> This article suspended §§ 759—762, 766, 860, 963.

are authorized and empowered with the advice and consent of our council of our said province of — under your government to settle and agree with the inhabitants of our said province for such lands, tenements, and hereditaments as now are or hereafter shall be in our power to dispose of, and them to grant to any person or persons upon such terms and under such moderate quit-rents, services, and acknowledgments to be thereupon reserved unto us as you, by and with the advice aforesaid, shall think fit; and WHEREAS the directions for the due execution of the said powers and authorities contained as well in our general instructions to you accompanying our said commission as in other additional instructions which may have been given to you from time to time respecting the modes of granting lands within our said province and the terms and conditions on which the said grants were to be made and passed, have been found to be inadequate, improper, and inconvenient; we have therefore thought fit with the advice of our Privy Council to revoke and annul and we do hereby revoke and annul all and every part of the said instructions and every matter and thing therein contained in so far forth as they relate to the laying out and passing grants of land within our said province and to the terms and conditions upon which the said grants are to be made; and it is our further will and pleasure and we do hereby direct and appoint that the following rules and regulations be henceforth strictly and punctually observed in the laying out, allotting, and granting such lands, tenements, and hereditaments as now are or hereafter shall be in our power to dispose of within our said province; that is to say:

First, that you, our said governor, or our governor or commander in chief of our said province for the time being, with the advice and assistance of our lieutenant governor of our said province, our surveyor general of our lands for the [northern, southern] district of North America, our secretary, our surveyor general of our lands, and our receiver general of our quit-rents for our said province of —, or any three of them, do from time to time and at such times as you shall with the advice aforesaid judge most convenient, cause actual surveys to be made of such parts of our said province not already granted or disposed of, the settlement or improvement whereof you shall think will be most advantageous to the public interest and welfare, taking care that such districts so to be surveyed and laid out as aforesaid be divided into such a number of lots (each lot to contain not less than one hundred nor more than

one thousand acres) as our surveyor general shall judge best adapted to the nature and situation of the districts so to be surveyed.

2d. That when the said survey shall have been made, a map of the district so surveyed with the several lots marked and numbered thereon be hung up in our secretary's office within our said province and duplicates thereof transmitted to us by one of our principal secretaries of state and to our Commissioners of our Treasury, accompanied with a report in writing signed by our said surveyor general descriptive of the nature and advantages not only of the whole district in general, but also of each particular lot.

3d. That so soon as the said survey shall have been made and returned as aforesaid, you, our said governor or commander in chief of our said province for the time being, do, with the advice of our council of our said province and of the officers hereinbefore mentioned, appoint such time and place for the sale and disposal of the lands contained within the said survey to the best bidder as you and they shall judge most convenient and proper, giving previous notice thereof at least four months before such sale, by printing advertisements to be published not only within our said province but also in the other neighboring provinces; and that you do proceed to such sales at the time appointed unless you shall first receive directions from us to the contrary under our signet and sign manual or by our order in our Privy Council.

4th. That you, our said governor, or our governor or commander in chief of our said province for the time being, do, with the advice and assistance aforesaid, fix the price per acre at which the several lots shall be put up to sale according to the quality and condition thereof, taking care that no lot is put up to such sale at less price than sixpence per acre, and all such lots are to be sold subject to a reservation to us, our heirs, and successors of an annual quit-rent of one halfpenny sterling per acre.

5th. That the printed advertisement containing notice of the time and place of sale so to be published as aforesaid be as full and explicit as may be, as well in respect to the number and contents of the lots to be sold, as the terms and conditions on which they are to be put up to sale and the general situation of the lands and the advantages and conveniency thereof.

6th. That the person who at such sale shall bid most for any lot shall be purchaser and shall upon payment of the purchase money into the hands of our receiver general or his deputy, who is

to attend at such sales, receive from him a bill of sale of the lot or lots so purchased, upon producing whereof to you our governor or to our governor or commander in chief of our said province for the time being, he shall forthwith be entitled to a grant in fee simple of the land so purchased as aforesaid, by letters patent under our public seal of our said province, subject to no conditions or reservations whatever other than except the payment to us, our heirs, and successors of the annual quit-rents of one halfpenny per acre as aforesaid and also of all mines of gold, silver, or precious stones.

7th. That the fees to be paid by purchasers of land in manner hereinbefore recited be such as are allowed by law and no other, and that neither our governor or commander in chief of our said province or any other officer or officers intrusted with the execution of these our instructions do, for the present and until some other arrangement be made for that purpose, take any other or greater fees.<sup>17</sup>

And it is our further will and pleasure that neither you, our governor, nor our governor and commander in chief of our said province for the time being, do upon any pretense whatever presume to grant any lands, tenements, or hereditaments within our said province which are in our power to dispose of upon any other terms or in any other manner than as hereinbefore recited, without our express authority for that purpose under our signet or sign manual or by our order in our Privy Council, except only in the case of such commissioned officers and soldiers as are entitled to grants of land in virtue of our royal proclamation of the 7th of October, 1763,<sup>18</sup> to whom such grants are to be made and passed in the proportions and under the conditions prescribed in the said proclamation.

And it is our further will and pleasure that in all districts which shall hereafter be surveyed in order to a sale of lands in manner hereinbefore recited, there be a reservation of such parts thereof as shall appear from the report of the surveyor to be necessary for public uses.

<sup>17</sup> In the two drafts of this instruction submitted June 3 and Nov. 25, 1773, this paragraph differed, containing a table of fees to be paid to the governor, secretary, and receiver general respectively by purchasers. The fees totaled: each grant of 100 acres, 20 s.; each grant between 100 and 500 acres, £1 15 s.; each grant above 500 acres, £2 10 s. C. O. 324: 18, pp. 450-462, 468-478; N. Y. Col. Docs., VIII, 412 n.

<sup>18</sup> See C. S. Brigham, *British Royal Proclamations Relating to America, 1603-1783*, pp. 212-218.

And it is our further will and pleasure that you, our said governor or our governor of our said province for the time being, do from time to time and as often as any survey or sales of land shall be made in manner before mentioned, make a full and particular report to us by one of our principal secretaries of state of all proceedings in regard thereto, together with a state of the expenses attending the said survey and sales, and your or their opinion of the allowances it may be proper to make on that account, to the end and intent that we may take such orders therein as shall appear to be reasonable and proper.<sup>19</sup>

A—In the opening paragraph omit WHEREAS . . . you and substitute: "whereas the usual directions for the due execution of the said powers and authorities contained as well in our general instructions to the governors of our provinces in North America accompanying their respective commissions, as in other additional instructions which may have been given to them".

Circular: East Florida, Georgia, New Hampshire, New York, North Carolina, Nova Scotia, Virginia, West Florida: Feb. 3, 1774.

South Carolina: 1774—Rev. A.

## 766. ESTABLISH TOWNSHIPS IN NEW PROVINCES

[1] And whereas it has been found by experience that the settling planters in townships hath very much redounded to their advantage, not only with respect to the assistance they have been able to afford each other in their civil concerns, but likewise with regard to the security they have thereby acquired against the insults and incursions of neighboring Indians or other enemies; you are therefore to lay out townships of a convenient size and extent in such places as you in your discretion shall judge most proper. And it is our will and pleasure that each township do consist of about TWENTY thousand acres having, as far as may be, natural boundaries extending up into the country and comprehending a necessary part of the SEA COAST where it can be conveniently had.

[2] You are also to cause a proper place in the most convenient part of each township to be marked out for building a town suffi-

<sup>19</sup> This instruction supercedes §§ 759–762, 764, 766, 775, 776, 802, 803, 806, 818, 819, 820, 822, 840, 854.

cient to contain such a number of families as you shall judge proper to settle there, WITH town and pasture lots convenient to each TENEMENT, taking care that the said town be laid out upon or as near as conveniently may be to some navigable river or the sea coast; AND you are also to reserve to us proper quantities of land in each township for the following purposes, viz: for erecting fortifications and barracks where necessary, or for other military or naval services, and more particularly for the growth and production of naval timber, if there are any woodlands fit for that purpose.

[3] And it is our further will and pleasure that a particular spot in or as near each town as possible be set apart for the building a church and four hundred acres adjacent thereto allotted for the maintenance of a minister and two hundred for a school-master.

[4] You are to give strict orders to the surveyors whom you shall employ to mark out the said townships to make returns to you of their surveys as soon as possible with a particular description of each township and the nature of the soil within the SAME. And you are to oblige all such persons as shall be appointed to be surveyors of the said lands in each township to take an oath for the due performance of their offices and for obliging them to make exact surveys of all lands required to be set out.

A—Omit par. 1.

B—Omit TWENTY (par. 1) and substitute: "one hundred".

C—Omit SEA COAST (par. 1) and substitute: "River of St. Lawrence".

D—In par. 2 omit: WITH . . . TENEMENT and substitute: "with a view to extending the same". Omit from AND to end of paragraph, and substitute: "and that a block house, entrenched and palisaded, be forthwith erected in such spot as you shall judge most convenient for the security of the said town when it shall come to be settled".

E—In par. 4 after SAME add: "distinguishing the profitable and unprofitable part thereof, and what rivers there are within the same, as also what quantity of wood there is proper for the use of our navy, a necessary part whereof you are to cause to be marked out and reserved for that purpose conformable to the laws of this kingdom for the preservation of timber for the use of our navy and to the instruction given to the surveyor general of the woods in North America".

East Florida: 1763-73; (§ 764).

Nova Scotia: (§§ 769-73); 1749-64 A, D,

E; 1764-73 B; (§ 764).

Quebec: 1763-71 C; (§ 835).

West Florida: 1763-73; (§ 765).

### 767. PLANTATIONS TO BE NEAR EACH OTHER AND THE SEACOAST

You shall as far as conveniently may be contrive that the plantations be near together AND that the seacoast be first PLANTED, whereby invasions may be the better discovered and prevented, and when there is opportunity by the goodness and convenience of the allotments to oblige the planters to build near together, yet so that the general insisting thereon may not discourage the coming of new planters.

A—Omit AND . . . PLANTED.

Jamaica: 1670-81.

Virginia: 1679-82 A.

### 768. BUILDING TOWNS AND PORTS IN MARYLAND

Whereas we have thought fit to give directions to our governor of Virginia to move the assembly to pass an act for the building of towns, warehouses, wharves, and keys at proper places upon the four great rivers and on the Eastern Shore of our said colony,<sup>20</sup> which will be very useful and serviceable in bringing the people to a more regular settlement and of great advantage to trade in the more expeditious lading and unlading of ships; and it being for the same reasons necessary that towns, warehouses, wharves, and keys be likewise built upon the rivers of Potomac, Patuxent, and on the opposite shore in our province of Maryland; you are upon your receipt hereof to lay this our instruction before our council there and to recommend to the general assembly of Maryland the passing of an act for that purpose, to be presented to us, which may take in as much as possible the several interests of the inhabitants and planters there and merchants here; in which act so to be passed the term of two years may be allowed from the passing thereof for the building of towns and warehouses and for the setting out and appointing of wharves and keys exclusive of any other places for the lading and unlading ships as aforesaid, the number of which towns are not to exceed three at most on each of the said rivers and two upon the opposite shore; and you are to correspond with our gov-

<sup>20</sup> See below, § 778.

ernor of Virginia in the carrying on of this good work in both our said colonies, and you are to give us and our Commissioners for Trade and Plantations a constant account of your proceedings herein.

Maryland: May 3, 1705.

### 769. LAYING OUT TOWNSHIPS IN NOVA SCOTIA (I)

And whereas for the better security, regulation, and government of our said settlement, it will be necessary that such persons as we shall judge proper to send to our said province should be settled in townships; you are therefore hereby authorized and required to appoint such proper persons as you shall find there fully qualified or carry along with you forthwith to survey and mark out the said townships in such manner and at such places as is herein directed, that is to say, that two townships containing 100,000 acres of land each be marked out at or near our harbor of Chebucto, as also one township of the like extent at each of the aforementioned places or such others as you shall judge most proper; and you are to take particular care in laying out the said townships that they do include the best and most profitable land and also that they do comprehend such rivers as may be at or near the said settlements and that the said townships do extend as far up into the country as conveniently may be, taking in a necessary part of the seacoast.

Nova Scotia: 1749-52; (§§ 770, 766).

### 770. LAYING OUT TOWNSHIPS IN NOVA SCOTIA (II)

And whereas it hath been found by experience that the settling planters in townships hath very much redounded to their advantage, not only with respect to the assistance they have been able to afford each other in their civil concerns, but likewise with regard to the security they have thereby acquired against the insults and incursions of neighboring Indians or other enemies; his Majesty has therefore thought fit for his service that townships should be marked out and settled at such places as you in your discretion shall judge most proper. And it is his Majesty's will and pleasure that each township do consist of one hundred thousand acres of land; and you are to take particular care in laying out the said townships that

they do include the best and most profitable land and also that they do comprehend such rivers as may be at or near the said settlements and that the said townships do extend as far up into the country as conveniently may be, taking in a necessary part of the sea coast.

Nova Scotia: (§ 769); 1752-64; (§ 766).

### 771. FRENCH SETTLEMENTS TO BE INCLUDED IN TOWNSHIPS

You are likewise to give particular directions to such persons as shall be employed by you to survey and mark out the said townships that they do take care in laying out the same, when there may be any settlements belonging to our French subjects, that the said townships do include the same, to the end that the said French inhabitants may be subjected to such rules and orders as may hereafter be made for the better ordering and governing the said townships.

Nova Scotia: 1749-56.

### 772. ENCOURAGE SETTLEMENT IN NOVA SCOTIA TOWNSHIPS

And you are hereby directed and required to give all possible assistance, encouragement, and protection to such of the inhabitants of the said province as shall be willing to settle in the said townships.

Nova Scotia: 1752-56.

### 773. LANDS TO BE GRANTED WITHIN TOWNSHIPS

And it is our further will and pleasure that the quantity of land allowed to each person and his family, or such a necessary part thereof as shall be found convenient, be laid out within the place to be marked out by you as aforesaid for building a town; in the doing of which you are to observe as much regularity as possible, taking care that the said lands do not extend in length along the seacoast or rivers, but only a necessary part thereof do abut upon

the same, the land extending up into the country as you shall see most convenient.

Nova Scotia: 1749-64: § 766).

#### 774. ESTABLISH TOWNSHIPS ON NEW HAMPSHIRE FRONTIER

And whereas it has been found by long experience that the settling planters in townships hath redounded very much to their advantage, not only with respect to the assistance they have been able to afford to each other in their civil concerns, but likewise with regard to the security they have thereby acquired against the insults and incursions of neighboring Indians or other enemies; we have therefore thought it for our service that townships should be settled on the frontiers of your province and that each township may consist of about twenty thousand acres of land, but not to exceed six miles square, and in each such township a proper place shall be laid out for the site of the town itself, where any planter besides fifty acres of land for each person in his family shall have set out a lot or footland for a town house, and that no town be set out or any such lands or lots granted until there be fifty or more families ready to begin the settlement, and that so soon as any such township has got one hundred or more families settled therein, it shall have and enjoy all the immunities and privileges as do of right belong to any other parish or township in the said province.

New Hampshire: 1741-Rev.

#### 775. ERECTION OF TOWNSHIPS IN SOUTH CAROLINA

Whereas it hath been found by long experience in our provinces of New Hampshire and the Massachusetts Bay that the settling of such persons as were disposed to become planters there in townships hath redounded very much to their advantage, not only with respect to the assistance they have been able to afford each other in their civil concerns, but likewise with regard to the security they have thereby acquired against the insults and incursions of the neighboring Indians; we have thought it for our service and you are hereby required to mark out and set apart ELEVEN townships in our said province on the banks of rivers at sixty miles distance from

Charlestown, that is to say, two townships upon the River ALTA-MAHA, two on the Savannah River, one on the head of Ponpon River, two on Santee River, one on Watry River, one on Black River, one on Peegee River, and one on Wacormace RIVER. It is our further will and pleasure that each of these townships do consist of twenty thousand acres of land to be laid out in square plats of ground, one side THEREOF to front the banks of the respective rivers on which they shall be SETTLED. In each of these townships you shall mark out a proper place for the situation of a town CONTIGUOUS to the river where the township LIES to consist of so many lots and each lot of such quantity of land as you shall judge convenient; and to each inhabitant at their first settling there besides their respective town lots you shall grant FIFTY acres of the abovementioned twenty thousand for every man, woman, and child of which the grantee's family shall consist, which GRANTS shall be augmented from time to time as the abilities of the respective inhabitants shall render them capable of cultivating more lands, always taking care to proportion the profitable and unprofitable land in each grant and to mark the same out in such manner that every grantee by the situation of his land may reap equal advantage of access to the river to which the township shall be contiguous. And to the intent that land near the said townships may not be wanting for the convenience of the inhabitants, as their substance shall increase, no person except the inhabitants shall be allowed to take up any lands within six miles of the said townships respectively, to which the said township shall be contiguous.

A—Omit ELEVEN and substitute: “nine”. Omit TWO . . . ALTA-MAHA.

B—Omit TO . . . RIVER and substitute: “as the number of inhabitants in the said province shall by God's blessing increase, to mark out and set apart such and so many townships as shall appear to you to be necessary for the reception and accommodation of them and of such persons as shall from time to time resort to the said province with a view of settling therein.” Omit THEREOF . . . SETTLED and substitute: “thereof if possible to front the banks of a river.” Omit CONTIGUOUS . . . LIES. Omit FIFTY . . . GRANTS and substitute: “one hundred acres part of the abovementioned twenty thousand acres, to every master or mistress of a family and fifty for every man, woman, or child of which the said grantee's family shall consist, under such limitations and restrictions as are hereinbefore directed; <sup>21</sup> provided always and we do hereby declare it to be our

<sup>21</sup> See especially §§ 759, 761, 802.

will and pleasure that in case any part of the lands lying within the nine townships directed to be laid out by our instructions to James Glen, Esq., late governor of our said province,<sup>22</sup> shall at the time of your arrival remain ungranted, any person or persons who shall take up and settle upon the same shall be exempted from the payment of quit-rents for ten years after the date of their respective grants; and it is our further will and pleasure that the grants so to be made by you as aforesaid."

South Carolina: 1730-38; 1738-55 A; 1755-74 B; (§ 765).

## 776. RIGHTS AND PRIVILEGES OF SOUTH CAROLINA TOWNSHIPS

It is our further will and pleasure that each of these townships, TOGETHER with all lands on the same side of the river lying within six miles of the said TOWNSHIPS respectively, be erected into a distinct parish, and that when any of the said intended parishes shall have one hundred householders they shall be entitled to send two members to our assembly and to enjoy all such other privileges as do of right and common usage belong to other parishes in our said province. And as a further encouragement to such persons as shall be disposed to settle in these townships, we are graciously pleased to allow the inhabitants thereof a right of common and herbage in and through all such lands contained within the extent of the said townships respectively as shall not be taken up by particular grants made to the said inhabitants, and that a quantity of land, not exceeding three hundred acres contiguous to the said town shall be set apart for a common in perpetuity to each of the said towns free from all quit-rent. AND it is our will and pleasure that you do with all convenient speed lay out these townships and that no person claiming a right to take up land in South Carolina by former grants from the late lords proprietors be allowed to take up lands within six miles of these townships by virtue of such grants.

A—Omit TOGETHER . . . TOWNSHIPS. Omit from AND to the end.  
South Carolina: 1730-55; 1755-74 A; (§ 765).

<sup>22</sup> As indicated in variation A above. The instructions as first signed for Governor Lyttelton in 1755 omitted this clause referring to the nine townships previously authorized. Lyttelton was captured by the French on his way out to the colony and his instructions were lost. When a fresh copy was prepared later in the same year, this clause was added. *Acts, Privy Coun., Col.*, 1745-66, pp. 278-279.

### 777. TOWNS TO BE BUILT ON VIRGINIA RIVERS; REBUILD JAMESTOWN

You shall likewise endeavor all you can to dispose the planters to build towns upon every river, and especially one at least on every great river, as tending very much to their security and profit. And in order thereunto, you are to take care that after sufficient notice to provide warehouses and conveniences, no ships whatsoever be permitted to load or unload but at the said places where the towns are settled. And whereas we are given to understand that Jamestown is not only the most ancient but the most convenient place for the metropolis of our said colony, you are to direct all possible means to be used for the speedy rebuilding of the same, as also to take care that the chief port, the usual place of your residence, the courts of justice, and other public offices attending the government be settled and continued in that place; for the better accomplishing of which our designs, you shall in our name let our councillors and chief inhabitants in that our colony know that we shall take it very well at their hands if they shall also contribute thereunto by building every one of them one or more houses as occasion shall offer; AND of the success thereof you shall from time to time give us an account by one of our principal secretaries of state and by our Committee for Trade and Foreign Plantations.

A—Omit from AND to the end.

Virginia: 1679-85; 1685-1705 A; (§ 778).

### 778. TOWNS TO BE BUILT ON FOUR GREAT VIRGINIA RIVERS

Whereas we are pleased to take notice that the building of towns, warehouses, wharves, and keys for the lading and unlading of ships at proper places exclusive of others upon each of the four great rivers and on the eastern shore in our said colony will be particularly useful and serviceable in bringing the people to a more regular settlement, and of great advantage to trade in the more expeditious lading and unlading of ships; and whereas there has been for many years last past several transactions upon the subject, copies whereof will be herewith delivered to you; <sup>28</sup> you are upon your

<sup>28</sup> See *Cal. State Paps., Col., 1704-5*, §§ 989, 1013.

arrival in our said colony to lay this whole affair and the several acts in this behalf before our council there and to recommend to the general assembly of Virginia (who may advise with the officers of the customs there, to pass an act for that purpose to be presented to us, which may take in as much as possible the several interests of the inhabitants and planters there and of the merchants here, avoiding always the inconveniences complained of in the former acts as set forth in the said papers, in which act so to be passed the term of two years may be allowed from the passing thereof for the building of towns and warehouses and for the setting out and appointing of keys and wharves as aforesaid, exclusive of any others, the number of which towns are not to exceed three at the most on each of the four great rivers and two on the eastern shore; and whereas we have given the like directions to our governor of Maryland,<sup>24</sup> you are to correspond with him in the carrying on of this good work in both our said colonies, and you are to give us and our Commissioners of Trade and Plantations a constant account of your proceedings herein.

Virginia: (§ 777): 1705-7.

### 779. DEVISE METHOD OF COLLECTING QUIT-RENTS

And it is our further will and pleasure that you do CONSIDER OF a proper and effectual method of collecting, receiving, and accounting for our quit-rents, whereby all frauds, concealment, irregularity, or neglect therein may be prevented, and whereby the receipt thereof may be effectually checked and controlled; and if it shall appear necessary to PASS AN ACT for the more effectually ascertaining and the more speedily and regularly collecting our quit-rents, you are to prepare the heads of such a bill as you shall think may most effectually conduce to the procuring the good ends proposed, and to transmit the same to our Commissioners for Trade and Plantations in order to be laid before us for our further directions therein.

A—Omit CONSIDER OF and substitute: “establish”. Omit PASS AN ACT and substitute: “apply to the legislature of the said colony for an act of assembly”.

East Florida: 1763—Rev.

Georgia: 1754—Rev. A.

Nova Scotia: 1764—Rev.

Quebec: 1769—Rev.

West Florida: 1763—Rev.

<sup>24</sup> See above, § 768.

### 780. TO MAKE QUIT-RENT ROLLS

And you are to take the most effectual care for the discovery of our quit-rents and for making in each county a perfect rent roll of the same by empowering THE SEVERAL RECEIVERS to administer an oath to all such as they shall account with to declare what other lands they may have, either in their own right or in the right of others, unaccounted for, or by such other means as you, with the advice of our said council, shall think most conducive to this SERVICE; AND you are further to take care that an exact account be forthwith drawn of all arrears of quit-rents due unto us, expressing from what persons, for what quantity of land, and for what time those arrears are due, and likewise an account specifying what particular persons in our said colony are possessed of above twenty thousand acres of land apiece, by what titles they hold the said land, and how much each of them is possessed of above that quantity, both of which accounts you are without delay to transmit unto us and to our Commissioners of our Treasury or to our High Treasurer for the time being and to our Commissioners for Trade and Plantations.

A—Omit THE SEVERAL RECEIVERS and substitute: “our receiver general”. Omit from AND to the end.

B—Omit THE SEVERAL RECEIVERS and substitute: “our receiver general”. Omit from AND to the end, and substitute: “And whereas we are given to understand that an act passed in that island in 1703, entitled *An Act for Ascertaining, Establishing, and More Speedy Collecting Her Majesty's Quit-rents*,<sup>25</sup> in which are many good clauses for that purpose, it is our will and pleasure that you make full inquiry what effect the said act has had, whether the same has been effectual and has answered the ends proposed thereby, and if not, what is still farther wanting for the purpose aforesaid, and give an account of all your observations thereon as soon as conveniently may be after your arrival in that government to us and to our Commissioners for Trade and Plantations”.

C—Omit THE SEVERAL RECEIVERS and substitute: “our receiver general”. Omit from AND to the end, and substitute: “And whereas his Majesty is given to understand that several acts have been passed from time to time in that island for ascertaining, establishing, and more speedy collecting his Majesty's quit-rents, in which are many good clauses for that purpose, it is his Majesty's will and pleasure that you make full inquiry what effect the said acts have had,

<sup>25</sup> *Jamaica Acts of Assembly, 1681-1737*, pp. 102-107.

whether the same have been effectual and have answered the ends proposed thereby, and if not, what is still further wanting for the purposes aforesaid, and give an account of all your observations thereon as soon as conveniently may be after your arrival in that government unto the Commissioners for Trade and Plantations in order to be laid before his Majesty".

D—Omit from beginning through SERVICE.

Jamaica: 1687-1734 A; 1734-52 B; Virginia: 1698-1728 D; 1728-Rev.  
1752-Rev. C.

### 781. QUIT-RENTS IN FLORIDA AND NOVA SCOTIA ALTERED

Whereas by the — article of our general instructions to you bearing date at our Court at St. James's the — day of —, in the fourth year of our reign, we thought fit to direct and require that in all grants of LAND to be made by you, our governor or the commander in chief of our province of — for the time being, a quit-rent of two shillings sterling for every hundred acres should be reserved to us, our heirs, and successors, to commence at the expiration of two years from the date of each grant and to be paid yearly and every year, or in default of such payment the grant to be void;<sup>26</sup> now know you that we have revoked and do hereby revoke and annul so much of the said article as relates to the reservation of the said quit-rent and all and every other clause, article, and thing respecting the same contained in our said general instructions to you. And it is our will and pleasure that in every grant OF land within our said province to be hereafter made by you, you do take especial care that a clause be inserted reserving to us, our heirs, and successors, a quit-rent OF ONE HALFPENNY sterling per acre, payable at the Feast of St. Michael in every year, the first payment to commence on the said Feast of St. Michael which shall first happen after the expiration of two years from the date of the grant, and to be payable on every ensuing Feast of St. Michael or within fourteen days after.

A—After LAND add: "in the continental parts of our province of Nova Scotia." Omit OF . . . you and substitute: "in the said continental parts of our province under your government." Omit OF ONE HALFPENNY and substitute: "not less than one farthing".

<sup>26</sup> See above, § 760.

East Florida: (§ 760); May 25, 1764— West Florida: (§ 760); May 25, 1764—  
 1773; (§ 764).  
 Nova Scotia: (§ 760); May 25, 1764—  
 1766 A; (§ 760).

## 782. QUIT-RENT RESERVATION: NEW HAMPSHIRE AND CAROLINAS

And whereas by your commission you are with the advice of our council there empowered to agree with the inhabitants of the said province for such lands, tenements, and hereditaments as now are or hereafter shall be in our power to dispose of, and them to grant to any person or persons for such terms and under such moderate quit-rents, services, and acknowledgments to be thereupon reserved unto us as you by the advice aforesaid shall think fit; it is nevertheless our express will and pleasure that you do not make any grants of land to any person whatsoever under a less quit-rent than ONE<sup>27</sup> shilling proclamation money for every hundred acres of land so granted, except for the first ten years, DURING which term the grantee shall be exempted from the payment of quit-rent; and that in all grants of land a clause be inserted to reserve all white or other sort of pine trees fit for masts of the growth of twenty-four inches diameter and upwards at twelve inches from the earth, to us, our heirs, and successors, for the masting our Royal Navy; and that no such trees shall be cut, felled, or destroyed without license for so doing first had and obtained, on penalty of the forfeiture of such grant and of the lands so granted reverting to the crown and of all other pains and penalties as are or shall be enjoined or inflicted by any act or acts of parliament passed in the kingdom of Great Britain; and that another clause be inserted therein to oblige the grantee to settle, plant, and cultivate at least three acres of land in every fifty acres so granted in five years after the date of his grant, and to continue such settlement and improve the same by additional cultivation on penalty of the forfeiture of his grant and of the lands reverting to us to be regranted to such as will effectually plant and cultivate the same.

A—Omit ONE and substitute: “four”.

B—Omit from OR to the end.

<sup>27</sup> As submitted by the Board of Trade the New Hampshire quit-rent was to have been four shillings. It was changed to one shilling by order in council. *Acts, Privy Coun., Col., 1720-45*, pp. 695-697.

C—Omit from DURING to the end and substitute: “to white servants as mentioned in the foregoing article,<sup>28</sup> and the like term to those who shall undertake to settle the eleven<sup>29</sup> forementioned townships or any of them”.

New Hampshire 1741—Rev.

North Carolina 1730—34 A, B; § 802.

South Carolina: 1730—55 A, C; (§ 802).

### 783. REGULATE METHOD OF COLLECTING QUIT-RENTS

And it is our further will and pleasure that you do make strict inquiry into the method used in our said province in collecting, receiving, and accounting for our quit-rents, and in case you shall find any fraud, concealment, irregularity, or neglect therein, you are to use your utmost endeavor for redressing the same and to establish a proper method whereby our auditor may be enabled more effectually to check and control the accounts exhibited by the receivers. And if it shall appear necessary to apply to the legislature of the said province for an act of assembly for the more effectually ascertaining and the more speedily and regularly collecting our quit-rents, you are to prepare the heads of such a bill as you shall think may most effectually conduce to the procuring the good ends proposed, and to transmit the same to our Commissioners for Trade and Plantations in order to be laid before us for our further directions therein.

New York: 1738—Rev.

North Carolina: 1754—Rev.

### 784. ARREARS OF QUIT-RENTS IN CAROLINAS REMITTED

Whereas we have been at very considerable charge in purchasing the sovereignty of the provinces of South and North Carolina together with seven-eighths parts of the lands thereof from the late lords proprietors and have actually paid them in consideration of seven-eighths parts of quit-rent only alleged to be due and in arrear to them from the inhabitants of our said province the sum of £5000; now as a further mark of our royal bounty and fatherly indulgence to our people under your government, we do hereby em-

<sup>28</sup> See below, § 806.

<sup>29</sup> Given as “eleven” in instructions of 1730; as “nine” in instructions of 1738 and 1739. See above, § 774.

power you to give your assent to a law, if not already done, for remitting the said arrears, provided THAT by the same LAW all possessors of land in our province under your government do forthwith register their respective grants by which they claim such lands in the office of our auditor general or his deputy, a copy of which register and of all grants to be made for the future you are to send to us as aforesaid and to our Commissioners for Trade and Plantations, and that every person possessing land in the province by virtue of any grant from the late lords proprietors do for the future pay to us, our heirs, and successors the annual quit-rents reserved upon such grants respectively in proclamation money, AND that the salaries and fees payable to all officers under your government be for the future likewise paid in proclamation money.

A—Omit THAT . . . LAW and substitute: “the assembly do by the same laws repeal one formerly consented to by the lords proprietors entitled *An Act to Ascertain the Prices of Land, the Forms of Conveyances, and the Manner of Recovering of Rents for Lands, and the Prices of the Several Commodities the Same Shall Be Paid in;*<sup>80</sup> and do thereby provide that”.

B—Omit from AND to the end.

North Carolina: 1730-54; 1754—Rev. B. South Carolina: 1730-55 A, B.

### 785. ALTERATION OF QUIT-RENTS IN ST. JOHN

In the meantime, and until such revenue can be established, we have taken into our royal consideration a proposal made by the principal proprietors of lots or townships within our said island of St. John, by which they respectively engage to take out fresh grants for their lots under the seal of our island of St. John, in exchange for those they have already taken out under the seal of our province of Nova Scotia upon the following terms and conditions; that is to say,

That one moiety of the quit-rent originally reserved on such lots and to commence at the expiration of five years from the date thereof shall, by the terms of these new grants, commence and become payable to us, our heirs, and successors, from and after the first day of May last past.

That the other moiety, the payment of which was to take place at the expiration of ten years shall, by the terms of the said new

<sup>80</sup> So. Car. Statutes at Large, II, 96-102.

grants, not commence and become payable until the expiration of twenty years from the date thereof.

As this proposal has in view to enable us to make provision for the support of government within our said island until the inhabitants thereof shall be in a condition to provide for that purpose by a proper revenue arising out of the duties and taxes granted to us by act of legislature, we have thought fit graciously to accept the same; and therefore our will and pleasure is that you do forthwith upon your arrival in your government cause the said proposals, the original whereof in writing and subscribed by the proponents will be herewith delivered to you, to be registered and entered upon record upon the council books; and that you do forthwith proceed to pass fresh patents under the seal of our said island for the respective lots upon the terms and conditions above mentioned, for which patents no fee or reward whatever shall be taken either by yourself or by any other person acting under your authority.

The annual amount of the quit-rents which will thus become due and payable to us is estimated as follows, that is to say: <sup>31</sup>

Twenty-six lots at six shillings per one hundred acres, a moiety of which is .....	780
Twenty-nine lots at four shillings per one hundred acres ..	580
Eleven lots at two shillings per one hundred acres .....	110
Rent of town and pasture lots uncertain .....	

St. John: 1769—Rev.

## 786. CONSIDER LAW FOR COLLECTION OF QUIT-RENTS

And in order the more effectually to secure and enforce the payments and collection of the quit-rents due to us upon all grants of land, as aforesaid, and upon which the support of our government is to depend, it will be an essential and immediate object of your attention to consider, with the advice of our council, of some proper law to be passed within our said island for that purpose, in which you will conform as near as may be to what has been approved and established for that purpose in our other colonies under like circumstances.

St. John: 1769—Rev.

<sup>31</sup> See above, § 385, for the disposition of this money for salaries.

### 787. CEASE EXEMPTION FROM FIRST SEVEN YEARS' QUIT-RENTS

And whereas we have been informed that the grant of our royal father of blessed memory heretofore made to that our colony to exempt the planters from paying quit-rents for the first seven years did turn to the great prejudice of that our colony, and that many took occasion thereby to take and create to themselves a title to such quantities of land which they never intended to, or in truth could, occupy, or cultivate it, but hereby only kept out others who would have planted and manured the same; we did therefore by our instructions <sup>32</sup> given to Sir William Berkeley, our late governor of that colony, revoke all such grants as contrary to the intention of our royal father and the good of the people. We do likewise give the same directions unto you, that if any such grants be still insisted on the same be looked upon and taken to be void and of none effect. And you are likewise to restrain the unlimited practice of taking up more lands than can reasonably be cultivated and to regulate all abuses herein.

Virginia: 1679-1756.

### 788. USES FOR VIRGINIA QUIT-RENTS

And whereas we intended to take in our letters patent whereby we have granted unto divers of our subjects the property of all lands lying within our said colony of Virginia, with all the quit-rents and other privileges mentioned therein,<sup>33</sup> and to that end have given orders for the satisfying the several patentees; it is our will and pleasure that the quit-rents which shall hereafter become due unto us (the respective patentees being first satisfied) as also the escheats, fines, and forfeitures, be applied to the public use and better support of the government, and particularly to the building of one considerable fort in such place and manner as you by the advice of our council shall find necessary for the defense of the country against foreign invasions and intestine seditions; and for the better carrying on of this work, we do hereby direct you and our council

<sup>32</sup> Instructions to Sir William Berkeley, 1662, § 6, *Virginia Magazine of History and Biography*, III, 19.

<sup>33</sup> See *Cal. State Paps., Col.*, 1669-74, §§ 769-770; Hening, *Statutes at Large*, II, 427-428.

to recommend very earnestly unto the next assembly the raising of money towards the more speedy building and necessary maintenance of such a fort.

Virginia: 1679-83; (§ 791).

### 789. COLLECTION OF VIRGINIA QUIT-RENTS

And we do further direct you to take due care that our quit-rents, escheats, fines, and forfeitures be collected and received with as little charge as may be, and that they be paid according to the reservation in money or in tobacco *ad valorem*.

Virginia: 1679-83; (§ 790).

### 790. COLLECTION AND DISPOSAL OF VIRGINIA QUIT-RENTS

And forasmuch as it seems incongruous that the place of receiver and accountant should be, as it has been of late years, in the same person with that of auditor, which is in the nature of it and ought to be, as a check or control thereunto, you are therefore to consider thereof and report unto his Majesty and the Commissioners of the Treasury or High Treasurer for the time being and to the Commissioners for Trade and Plantations what you conceive most proper to be done for his Majesty's advantage and for the advantage of that colony in the settlement of both or either of the said offices with proper limitations and restrictions; and in the MEANWHILE to take care that his Majesty's quit-rents be not only duly gathered but, in order to the improvement thereof, that they be sold every year openly by inch of candle to the highest bidder in the respective county courts and that due notice be given of the time and place of any such intended sale in such manner as may make it most publicly known to all people a competent while beforehand.

A—Omit from beginning through MEANWHILE and substitute: "And for the better improving the value of our quit-rents, you are".

B—Add at end: "unless you by the advice of the said council shall be of opinion that the said tobacco may be disposed of more to our advantage by some other method".

Virginia: (§ 789); 1698-1707; 1707-28 A; 1728-56 A, B.

### 791. NOT TO DISPOSE OF VIRGINIA QUIT-RENTS

Provided always<sup>84</sup> that you do not dispose of any part of our quit-rents nor suffer the same to be issued out upon any occasion, until upon your certifying to us the value of what shall remain thereof from time to time in our treasury or be due unto us, we shall order the same to be disposed of as we shall find occasion for our service.

A—Omit from beginning through NOT and substitute: “And it is our express will and pleasure and you are strictly charged and required not to”.

B—Add at end: “the sum of £300 per annum thereout only excepted, which we do hereby direct and appoint to be paid unto Francis Nicholson, Esq., our lieutenant governor of our colony of Virginia, or such lesser sum or sums proportionably from and during such time or times only as you shall be resident within your government”.

Virginia: (§ 788); 1690-98 B; 1698-1768; 1768-Rev. A.

### 792. CONTINUE PUBLIC OFFICERS' SHARES OF LANDS AND NEGROES

You ARE to continue unto the public officers the allowance of the same number of shares of land and slaves as were enjoyed by them during the time of the late company until our pleasure shall be known therein. And you are with all speed to send unto us an exact account of ALL the said shares of lands and slaves.

A—After us add: “and to our Commissioners for Trade and Plantations”.

B—After ARE add: “not” (probably a clerical error only). Omit from ALL to the end, and substitute: “the number of slaves allowed to you and to every other public officer specifying how many (if any) are wanting to complete the number allowed to each officer respectively”.

Bermuda: 1686-98; 1698-1755 A; 1755-61 A, B.

<sup>84</sup> This article directly follows § 388 directing the payment of salaries to the governor and other officers out of the revenues of the colony.

**793. TO INQUIRE INTO PUBLIC LANDS IN BERMUDA**

You are with the advice of the council to consider of the public lands, school lands, whale-fishing, and all other profits and revenues accruing unto us in those islands; and you are to take care that strict inquiry be made of the sheriff and all other officers and ministers in whose possession any of the public lands now are how they claim the same, and by what lease or grant, for what term, and at what rent, and to what service they are obliged for such rent and whether such service may well be performed with an increase of rent without oppression to the poor.

Bermuda: 1686-1755; (§ 794).

**794. PUBLIC AND SCHOOL LANDS IN BERMUDA**

Whereas it hath been represented to his Majesty that great abuses have been committed with respect to the public lands and school lands in the said islands, to the great prejudice of his Majesty's revenue; in order therefore that his Majesty may be truly and perfectly informed of the state and condition of the said lands, you are to make a careful and diligent inquiry into the following particulars, viz: the names of all and every person or persons possessing any of the said public lands or school lands; what number of acres each person holds; where the same are situate; by what lease or grant each part and parcel of the said lands is held; for what term; for what rent; and whether such rents be duly paid and such services truly performed. You are also to make the like inquiry of the provost marshal and all other officers and ministers in whose possession any of the public lands now are; and if in making such inquiry you shall find it necessary to call upon his Majesty's council of the said islands for their advice and assistance, his Majesty doth hereby charge and command them and every of them to be aiding and assisting to you therein; and when you shall have fully informed yourself of the several particulars above mentioned relative to the said lands, it is his Majesty's will and pleasure, that you do transmit a full and particular account thereof to the Commissioners for Trade and Plantations, in order to be laid before his Majesty, for his further directions therein.

Bermuda: (§ 793); 1755-58; (§ 795).

### 795. DISPOSAL OF BERMUDA PUBLIC LANDS

Whereas it hath been humbly represented unto us<sup>35</sup> that certain lands belonging to us, our heirs, and successors in our Bermuda or Somers Islands have greatly decreased in their value for some years past by reason that the occupiers of such lands, being only tenants at will and for the most part poor and indigent persons, have neither inducement nor ability to cultivate and improve the same, whereby our revenue is much lessened and the said lands are become of little benefit and will in a few years be rendered useless to the inhabitants of our said islands; and whereas a proposal has been humbly submitted to our royal consideration for raising the value of our said lands by vesting the same under certain conditions in such persons as may be desirous to become purchasers or to hold them at certain rents to be reserved to us, our heirs, and successors, whereby great benefit will accrue not only to our revenue but to the inhabitants of our said islands in general; we are graciously pleased to approve the said proposal and we do hereby authorize and empower you to carry the same into execution in the manner and form hereinafter described.

It is our will and pleasure that you do with the advice and consent of our council, settle, rate, and ascertain the value of all [and] singular the parcel or parcels of land belonging to us, as aforesaid, as well those which we have been pleased to allow to our governor for the time being as those which are allotted to the use and profits of our secretary, sheriff, and provost marshal, and the captains of our forts and castles for the time being, and those also which are held and enjoyed by such person or persons as keep the ferry at the west end of the island of St. George for the time being, and in general all such lands as, upon the eviction of the late company's charter did become vested in the crown of these realms, according to the goodness of the several parcels thereof and according to the general value that lands bear in our said islands; and that the said parcels be disposed of in manner hereinafter directed, according to the value so ascertained and settled by you and our council, as aforesaid, so that no parcel thereof be sold at a lower price; provided always, and you are to take especial care, that nothing be done in

<sup>35</sup>This representation was the outgrowth of the inquiry into the public-land question conducted by Gov. Popple in accordance with orders given him in 1755 (see § 794). *Acts, Privy Coun., Col.*, 1745-66, pp. 307-308.

pursuance of this our royal instruction or of any power or authority hereby given to you in prejudice of any grant passed under the public seal of our said islands of any lot or lots of land within the bounds of the town of St. George; but that such grants remain in their full force and virtue according to their true intent and meaning.

And so soon as such estimate shall have been made, as aforesaid, you shall cause publication to be made in the several churches in our said islands where divine service shall be performed, for two successive months, that our said lands shall be divided into shares, half-shares, and in such other smaller proportions as may be for the benefit of those persons who have been and are tenants thereon, except small islands which need not be divided; and that such person, who shall agree to pay the value at which such shares, half-shares, or other smaller proportions, as aforesaid, have been rated, or in case more than one person should be desirous of purchasing the same parcel of land, that then he who shall agree to pay the largest value for the same, shall have a grant thereof, signed by you our governor or by the commander in chief for the time being under the public seal of these islands out of the secretary's office of our said islands, according to the usual practice of passing grants of lots of land in the town of St. George. That in the said grant the quantity and boundaries of the said land, the value agreed to be paid for the same, and the interest to be paid on such principal sum agreed to be paid for the said share, half-share, or smaller proportion of land, as aforesaid, shall be certified and expressed, and that you our governor or the commander in chief for the time being will give public notice throughout our said islands from time to time of the particular places, days, and hours on which you or the commander in chief of our said islands for the time being will attend, in order to agree with any person or persons for grants of any of the said lands; and that no agreement for any grant of any part or parcel of the said lands shall be made at any other time or place than such as shall be previously appointed by such public notice, as aforesaid.

Our further will and pleasure is that an interest at and after the rate of three pounds by the hundred by the year shall be paid on the sum agreed by each purchaser to be by him given for each and

every parcel of our said lands; and that the same be paid to us half-yearly at the Feasts of St. John the Baptist and the Nativity of Our Lord.

And for security of the payment of such interest you shall take especial care that, in all and every grant by you to be issued as aforesaid to each respective purchaser of any part or parcel of our said lands, it be expressly provided that the lands thereby granted be made liable to the payment of the interest to accrue on the principal sum agreed to be given for the same; that if such interest shall not be duly paid within three months after it shall become due and be demanded the same shall be levied by our sheriff or provost marshal by distress on the goods and chattels of the grantee, and if such grantee shall a second time neglect to pay the said interest within three months after it shall become due and shall be demanded, as aforesaid, that then and in such case the lands so occupied by such person under such grant, as aforesaid, shall be forfeited and disposed of anew, in the manner and on the conditions abovementioned.

And you are to take especial care, on all such occasions of forfeiture, that all legal means be used and taken for the recovery of such interest as at the time of such forfeiture may be due thereon to us.

And whereas we have been graciously pleased to grant and allow unto our governor of our said islands the use and profits of certain lands lying in the island of St. George containing by estimation twelve shares, be they more or less;<sup>86</sup> it is our will and pleasure that all the said lands so esteemed twelve shares, excepting twenty-five acres lying most contiguous to the government house, be also disposed of in the manner hereinbefore directed; and that the interest arising from the money paid or agreed to be paid by such person or persons to whom the said lands shall or may be granted shall be paid unto you our governor and to our governor or commander in chief of our said islands for the time being, in such manner and at such times as are hereinbefore directed.

And whereas certain parcels of land estimated at six shares lying and being in our island of St. George are allotted to the use of our secretary, sheriff, and provost marshal for the time being, it is our

<sup>86</sup> See above, §§ 353, 357.

will and pleasure that all those lands except fifty acres be disposed of in like manner, and that the interest to accrue from the money paid or agreed to be paid for the same be in like manner paid to our secretary, sheriff, and provost marshal for the time being.

And whereas two shares of our said lands are allotted to the person who shall keep the ferry at the west end of the island of St. George, and divers other parcels of our said lands are allotted to the captains of our forts and fortifications in our said islands, it is our further will and pleasure that all the said lands allotted to the person or persons keeping the said ferry (except twelve acres lying most contiguous to the ferry house) and all the said lands so allotted to the captains of our forts and fortifications be also disposed of in like manner and that the interest of the sum paid or agreed to be paid for the same shall be paid to such person or persons as shall keep the ferry and to the captains of our forts and fortifications for the time being.

And you are to signify to our provost marshal of our said islands that we will and require him to collect and receive all moneys that shall arise from the disposal of our said lands in the manner hereby directed and to keep a fair book of accounts in which he shall enter all and every sum or sums which he shall so receive. And further that we do hereby authorize and require him to pay thereout in pursuance of warrants to be issued and directed to him for that purpose by you our governor or commander in chief for the time being the several proportions of interest that shall accrue and become due, as aforesaid, to our governor or commander in chief, to our secretary, sheriff, and provost marshal, to the captains of our forts and fortifications, and to the person or persons keeping the said ferry for the time being. And for his trouble in receiving and paying our said revenue we are graciously pleased to permit and allow our said provost marshal to deduct and retain to his own use a commission at the rate of five per cent upon the sum to be by him received.

And it is our further will and pleasure that any overplus which may remain after such payments made, as aforesaid, shall be placed in the hands of our provost marshal in such manner as we shall hereafter be pleased to direct and appoint, by warrant under our signet or sign manual, countersigned by our Lord High Treasurer or the Commissioners of our Treasury for the time being.

And our further will and pleasure is that in case any person or persons shall choose to pay down the whole money agreed for, instead of an interest thereupon at the rate of three pounds by the hundred for the purchase of our said lands, such principal sum or price agreed for shall be paid at the delivery of the grant or grants of such lands, or shall be secured to be paid within three months after; and, on failure of payment at the expiration of the said three months, such grant or grants shall be void, and such lands shall be disposed of again, and all moneys so paid down on the delivery of the several grants or within three months next ensuing in consequence of security to be given for that purpose shall be lodged in the hands of our provost marshal to be applied as in the case of the overplus abovementioned as we shall hereafter think proper to direct.

And for the greater security of such persons as shall become purchasers of our said lands or any parts or parcels thereof and for their greater encouragement in improving the same to the best advantage, it is our will and pleasure that all purchasers who on taking out their respective grant or grants or within three months next ensuing shall pay to our provost marshal the price agreed for the land described on such grant or grants, shall hold, possess, and enjoy such lands to them and their heirs in fee simple; and that all other purchasers who, instead of paying down the price agreed on, shall pay an interest thereon at the rate of three pounds per cent by the year shall hold, possess, and enjoy their lands in fee simple conditional.

And whereas divers persons who may be desirous of purchasing shares or other proportions of our said lands in fee simple conditional may not be able to pay the purchase money on receipt of their respective grants or within three months next after, we are graciously pleased to declare that all such persons who shall become purchasers in fee simple conditional, as aforesaid, may at any time hereafter on paying the original purchase money become purchasers in fee simple and have a new grant or grants of the land they hold in lieu of the former, which new grant or grants shall entitle such persons to the possession of such parcel or parcels of land in fee simple.

### 796. CARRY OUT INSTRUCTIONS FOR DISPOSAL OF PUBLIC LANDS

Whereas our late royal grandfather was graciously pleased, by his royal instruction dated at Kensington the [16th?] day of June, 1758, in the 31st year of his reign, to authorize and direct you, with the advice and consent of the council of the said islands, to sell and dispose of certain lands, the property of his said Majesty, his heirs, and successors, upon certain conditions, limitations, and restrictions, prescribed in the said instruction; <sup>37</sup> it is therefore our will and pleasure, that you do carry the said instruction and every matter and thing therein contained in full and complete execution, and that you do transmit to our Commissioners of our Treasury and to our Commissioners for Trade and Plantations, in order to be laid before us, a full and particular account of your proceedings in the execution of the said instruction, specifying the sums of money, as well principal as interest, which have been received and placed in the hands of our provost marshal in our said islands, the sums which, in pursuance of your warrants to him directed, he may have paid thereout, according to the direction of the said instruction, of the sum remaining in his hands. And you are regularly to transmit a like account to our Commissioners of our Treasury and to our Commissioners for Trade and Plantations every six months, to the end that you may receive our royal directions concerning the disposal of the sum remaining from time to time, in the hands of our said provost marshal.

Bermuda: (§§ 793-795); 1761-64.

### 797. EXAMINE NORTH CAROLINA LAND GRANTS (I)

Whereas we have been informed that several frauds have been committed in our said province by issuing out grants of land without previous surveys, wherein the number of acres granted have been left in blank; our will and pleasure is that you inquire what grants have been made by any governors of North Carolina since the year 1728, for what considerations such grants have been made, and in what manner and for what number of acres, and what quantity of lands are now held by virtue of such grants, whether they

<sup>37</sup> See above, § 795.

were issued previous or subsequent to surveys, whether the tracts of land now claimed under such grants or any of them were particularly described in the said grants when they were first signed. And if upon examination you shall find that they have not passed through the essential and requisite forms, you shall cause prosecution to be made by our attorney general for vacating such of them as have been fraudulently obtained. And you are as soon as may be to send to us and to our Commissioners for Trade and Plantations a particular account of your proceedings herein.

North Carolina: 1733-54; (§§ 798, 799, 843).

#### 798. EXAMINE NORTH CAROLINA LAND GRANTS (II)

Whereas it hath been represented to us that very irregular methods have been hitherto observed and great frauds and abuses committed with respect to grants of land within our said province, whereby our revenue hath been greatly prejudiced, the property of our subjects affected, and the cultivation and improvement of our said province obstructed; it is therefore our will and pleasure that you do as soon as you conveniently can cause a proper inspection to be made into the several books of the land office, and of the secretary's and surveyor's offices within our said province, and that you require and direct the proper officers to lay before you copies or extracts of all the warrants entered or lodged therein, which have been issued for lands and of all grants that have been made in pursuance thereof, and of all surveys and returns that have been made by virtue of such warrants.

North Carolina: (§ 797); 1754-Rev.

#### 799. PROCEEDINGS AGAINST FRAUDULENT GRANTS IN NORTH CAROLINA

And in case it shall appear to you that any of the grants or warrants for land granted or issued by the governors or commanders in chief of our said province since the date of our purchase were fraudulently obtained or made out in any manner contrary to and inconsistent with the instructions to them in that behalf; you are to give public notice by proclamation, or in such other manner as you shall think most proper, to all persons claiming or holding

lands under such grants or warrants to appear before you within such reasonable time as you shall appoint in order to take out fresh grants of such lands subject to the payment of such quit-rents and to such conditions of cultivation and improvement as are required by these our instructions to you; and if any such person shall neglect or refuse to accept and take out such fresh grants on the terms and condition aforesaid, you are to certify the same to our attorney general of our said province to the end that the forfeitures or invalidity of the grants or warrants under which such person claims may be prosecuted and declared according to the due course of law.

North Carolina: (§ 797); 1754—Rev.

#### 800. NORTH CAROLINA LAND TITLES MUST BE PERFECTED

You are in like manner to give notice to all persons claiming lands by virtue of warrants which have not been regularly carried into execution, the possessors thereof not having taken out regular grants for those lands or settled them conformable to our instructions to the governors of our said province, that unless they do forthwith take out such grants conformably to our said instructions and in all things comply therewith, it is our will and pleasure that the lands so claimed by such warrants shall be disposed of to such foreigners or others as shall come to settle in our said province.

You are further to give notice to all such persons who, having taken our grants in pursuance of their warrants, have nevertheless neglected to seat their lands or to pay the quit-rents for the same agreeably to the terms of their grants, that they shall be forthwith prosecuted for such their default unless they immediately comply with and fulfil the conditions of their grants.

North Carolina: 1754—Rev.

#### 801. CAUTIONS IN CAROLINA LAND GRANTS

Whereas great inconveniences have arisen in many of our colonies in America from the granting of excessive quantities of land to particular persons, which they have never cultivated and have thereby prevented others more industrious from improving the same, more particularly in [North Carolina, South Carolina] where

several persons claim a right to many thousand acres which they have not yet taken up AND many other persons a right to many more acres of land than are expressed in their said grants; it is therefore our will and pleasure that you do not suffer any person to possess more acres of uncultivated land than are mentioned in their respective GRANTS; and you are hereby directed to recommend to the assembly of our said province to pass an act or acts whereby the owners of all lands already granted by the late lords proprietors shall be obliged within a reasonable time to take possession of and cultivate the lands by them claimed on penalty of forfeiture of such right of claim. And to prevent the like inconveniences for the future in all grants of land to be made by you by and with the advice and consent of our council, you are to take especial care that no grant be made to any person but in proportion to his ability to cultivate the same, and that proper clauses be inserted for vacating the said grants on failure of cultivation or payment of the quit-rents reserved thereon. And as the most probable measure for your judgment in this particular will be to proportion the quantity of land to the number of persons and slaves in each grantee's family, you are hereby directed not to grant to any person more than fifty acres for every white or black man, woman, or child of which the grantee's family shall consist at the time the grant shall be made. But in the laying out of all lands for the future where such lands shall be contiguous to rivers, you are to take care that not above one fourth part of the land granted shall border upon the river, that is to say, there shall be four chains in depth backwards to every chain in front upon the said river respectively, and so in proportion for any larger quantity, and that a free passage to and from the said river be reserved for the use of all his Majesty's subjects.

A—Omit AND . . . GRANTS.

North Carolina: 1730–54: (§§ 761, 802).    South Carolina: 1730–55 A; (§§ 761, 802).

802. PREVENTION OF EXCESSIVE GRANTS IN CAROLINAS  
AND GEORGIA

And whereas great inconveniences have arisen in many of our colonies in America from the granting of excessive quantities of land to particular persons who have never cultivated or settled

it, and have thereby prevented others more industrious from improving the same; IN order therefore to prevent the like inconveniences for the future, you are to take especial care that in all grants to be made by you by and with the advice and consent of our council to persons applying for the same, the quantity of land BE in proportion to their ability to cultivate the same; and AS the number of persons in each grantee's family will be the most reasonable measure for your judgment in this PARTICULAR, you are therefore hereby directed to observe the following method in all grants to be made by you, viz:

That one hundred acres of land be granted to every person being master or mistress of a family for himself or herself, and fifty acres for every white or black man, woman, or child of which such person's family shall consist at the actual time of making the grant, SUBJECT to the payment of a quit-rent of four shillings proclamation MONEY for every hundred acres so granted, to commence at the expiration of two years from the date of such grant, on failure of which the grant to be void.

That every grantee, upon giving proof that he or she has fulfilled the terms and conditions of his or her grant, shall be entitled to another grant in the proportion and upon the conditions above-mentioned.

That all grantees of lands be obliged by the terms of their grants to clear and cultivate at the rate of five acres per year for every hundred acres contained in their grants, in failure of which their grants shall be void.

A—Omit IN . . . BE and substitute: "more particularly in South Carolina where several persons claim a right to many thousand acres which they have not yet taken up; you are hereby directed to recommend to the assembly of our said province to pass an act or acts whereby the owners of all lands already granted by the late lords proprietors shall be obliged within a reasonable time to take possession of and cultivate the lands by them claimed on penalty of forfeiture of such right or claim; and to prevent the like inconvenience for the future of all grants of land to be made by you, by and with the advice and consent of our council, you are to take especial care that no grants be made to any person but".

B—Omit AS . . . PARTICULAR. Omit SUBJECT . . . MONEY and substitute: "and in case any person or persons applying to you for grants of land shall be desirous of taking up a larger quantity than the actual number of persons in their family would entitle them to, it is our will and pleasure and you are hereby permitted and

allowed to grant unto such person or persons such further quantity of land as they may desire not exceeding one thousand acres over and above what they are entitled to by the number of persons in the family, provided it shall appear to you that they are in condition and intention to cultivate the same, and provided also that they do pay to the receiver of our quit-rents or to such other officer as shall be appointed for that purpose the sum of five shillings for every fifty acres so granted on the day of the date of the grant; that all grants be subject to the payment of a quit-rent of two shillings".

Georgia: 1754-55 B; (§ 760).

South Carolina: (§§ 782, 801); 1755-

North Carolina: (§§ 782, 801); 1754-

74 A; (§ 765).

74; (§ 765).

### 803. APPLICANTS FOR LAND GRANTS TO GIVE SECURITY

And you are to oblige all and every person applying to you for grants of land as aforesaid to give good and sufficient security that they will not enter upon or begin to cultivate his or their lands until a patent for the same be finally completed and entered as aforesaid.

North Carolina: 1754-74; (§ 765).

### 804. DISPOSAL OF LANDS CEDED BY CREEKS (I)

Whereas the sachems or chiefs of the Upper and Lower Nations of Creek Indians did in the year 1733 by solemn treaty with the trustees appointed by our royal charter of incorporation for establishing our colony of Georgia, yield and grant to the said trustees all the lands situated upon the Savannah River as far as Ogeechee and all the lands along the seacoast as far as the River St. Johns, together with sundry islands, as by the said treaty, relation being thereunto had, may more fully appear, reserving to themselves certain tracts of land from Pipemakers Bluff to Savannah and the islands of St. Catherine, Osselaw [Ossaba], and Sapelo, to be held by them as tenants in common for their hunting grounds; and whereas it has been represented to us that in June last several of the chiefs of the said Indian nations, being solemnly deputed for that purpose, did by treaty with you our governor formally cede and surrender to us, our heirs, and successors forever all the lands and islands so reserved by the said treaty as aforesaid, whereby the said lands and islands are become subject to our royal grant and dis-

posal in such manner as we shall think fit to direct; and whereas we are informed that a certain part and parcel of the said surrendered lands called the island of St. Catherine is settled and now actually possessed and improved by Thomas Bosomworth, clerk, and Mary his wife, who by her humble petition hath set forth sundry services by her alleged to have been performed in the beginning of the settlement of our said colony under the late trustees, and prayed such recompence in consideration of the same as should to us seem meet; <sup>as</sup> in order therefore to vest a right in the said Thomas Bosomworth and Mary his wife to the said lands so actually possessed and improved by them and to make them ample recompence for the services alleged by them to have been performed, our will and pleasure is and you are hereby authorized and directed to give unto the said Thomas Bosomworth and Mary his wife, by grant or grants to be passed under the seal of our said colony and duly registered, all the lands comprised within the said island of St. Catherine and so settled and possessed, to be held and enjoyed by them and their heirs under such terms and conditions of quit-rents and cultivation as are prescribed by our royal instructions to you in that behalf.

And our further will and pleasure is that the residue of the said lands and islands so surrendered to us as aforesaid be sold to such persons as shall be desirous of purchasing them by public auction in such lots and after such public notices as you with the advice of our council shall judge proper, and provided also that such purchasers be subject to the payment of the same quit-rent as is directed by our commission and instructions to you to be reserved upon all lands granted within our said province.

And when all the several lots or shares of land shall have been sold in the manner hereby directed, our further will and pleasure is that out of the money which shall arise from such sale you do pay or cause to be paid to the said Thomas Bosomworth and Mary his wife such a sum as together with the abovementioned grant of the island of St. Catherine shall in your judgment and discretion appear to be a just and reasonable satisfaction for all their claims

<sup>as</sup> Mary Bosomworth, better known as Mary Musgrove, was a half-breed Indian Cousaponakeesa, self-styled "rightful and natural born Princess of the Upper and Lower Creek Nations." Her checkered career is briefly described in E. M. Coulter, "Mary Musgrove, 'Queen of the Creeks': A Chapter of Early Georgia Troubles," *Georgia Historical Quarterly*, XI (Mar. 1927), 1-30. See also *Acts, Privy Council*, 1745-66, § 287. Documents in the case are in C. O. 5: 712, Public Record Office and in the Library of Congress.

and pretensions on account of services performed or of any other matter or thing of what kind or nature soever. And you are accordingly upon the payment of such sum of money and before the issuing of the grant hereby directed to be made to the said Thomas Bosomworth and Mary his wife of the island of St. Catherine, to cause the said Thomas Bosomworth and Mary his wife to execute to you in due manner and form a general release and acquittance, renouncing all further claim, pretension, or demand whatsoever.

And lastly we will and require you to transmit to our Commissioners of our Treasury and to our Commissioners for Trade and Plantations a particular account of all your proceedings in pursuance of this our instruction, specifying the sum which shall arise from the sale of the said lands and islands, the sum which you shall pay to Thomas Bosomworth and Mary his wife, and the surplus which shall thereafter remain in your hands, to the end that such surplus may be applied to our service in such manner as we shall think fit to direct.

Georgia: Feb. 9, 1759; (§ 805).

### 805. DISPOSAL OF LANDS CEDED BY CREEKS (II)

Whereas his late Majesty, our royal grandfather, was graciously pleased by his royal instruction bearing date the 9th of February, 1759,<sup>89</sup> to authorize Henry Ellis, Esquire, his governor of the province of Georgia, for the reasons and purposes in the said instruction set forth to make sale of the islands of Ossaba and Sappalo and of a certain tract of land lying between the town of Savannah and Pipemakers Creek containing about four thousand acres, which the Creek Indians ceded to his said late Majesty in 1758; and whereas it hath been humbly represented to us that the said governor, finding in the course of his proceedings in the execution of the said instruction that almost the whole of the said four thousand acres were in the actual possession of several persons, who by virtue of allotments made by the late trustees of Georgia settled there in 1752 and have continued to cultivate and improve the said lands ever since, and conceiving that it could not be the royal intention that lands so occupied though not excepted in the said instruction should be sold, did therefore forbear to give any disturbance to the

<sup>89</sup> See above, § 804.

said present possessors until our royal pleasure should be known in that behalf; we, therefore, having taken into our royal consideration the particular circumstances of the several persons possessing the said lands, have thought fit hereby to authorize and require you to give and grant by patent in the usual form under the seal of our province of Georgia to each and every person possessing any land between the town of Savannah and Pipemakers Creek by virtue of any allotment or grant from the late trustees of the said province such quantity of land whereof he or she is so possessed subject to the payment of such annual quit-rent as is prescribed by his said late Majesty's instructions in that behalf.

Georgia: (§ 804); May 1, 1761.

#### 806. HEAD-RIGHT TO ENCOURAGE WHITE SERVANTS

And whereas we have been informed that the number of white men in our said province bears too small a proportion to that of the blacks, which is not only an hindrance to the peopling and settling the same but may be also of dangerous consequence from the attempts of an enemy and even from an insurrection of the Negroes; it is our will and pleasure that you recommend in the strongest terms to the assembly that they pass an act giving suitable encouragement to all who shall import white servants into the province, either men or women; and as encouragement for white servants to go thither, we are graciously pleased to allow you to grant FIFTY acres of land free of quit-rent for ten years to all white servants, men and women, who shall have served their masters the whole time of their agreement and shall be willing afterwards to become planters or settlers in the said province.

A—Omit FIFTY and substitute: "one hundred".

South Carolina: 1730-55; 1755-74 A; (§ 765).

#### 807. PATENTS FOR LANDS SOUTH OF THE ALTAMAHIA

It is our will and pleasure and you are hereby directed and required forthwith upon the receipt hereof to give positive orders to the proper officers in our province of South Carolina forthwith to prepare transcripts duly authenticated of all the patents granted under the seal of that our province for lands to the southward of

the River Altamaha, and also of all orders, warrants, and proceedings thereupon, and to transmit the same with all convenient dispatch to the governor or commander in chief of our province of Georgia for the time being that they may be entered upon record in the proper offices in that province.<sup>40</sup>

South Carolina: Sept. 11, 1767.

### 808. LANDS SOUTH OF THE ALTAMAHА RIVER

Whereas we have thought fit by our additional instruction to the governor of our province of South Carolina<sup>41</sup> to direct him upon the receipt thereof to give positive orders to the proper officers in that our province forthwith to prepare transcripts duly authenticated of all the patents granted under the seal of that province for lands to the southward of the River Alatamaha [Altamaha] and also of all orders, warrants, and proceedings thereupon and to transmit the same with all convenient dispatch to you or to the commander in chief of our colony of Georgia for the time being; it is our will and pleasure that you do forthwith upon the receipt of such transcripts cause the same to be entered upon record in all the proper offices of our said colony under your government; and whereas our Commissioners for Trade and Plantations have, in their report to us upon an act passed in our said colony in March, 1765,<sup>42</sup> containing regulations for the establishment of the titles of the several persons claiming the said lands and for the enforcing the cultivation thereof, represented that the act not only prescribes other terms and conditions than those upon which the lands were granted conformable to our instructions to the governor of South Carolina, but also in the manner of ascertaining the titles of the several grantees, leaves it entirely to the discretion of our governor and council of Georgia to decide what the nature of the proof to be brought in support of such titles shall be, and further does limit the time of adducing such proof to six months from the receipt and notification in the Gazette there of our confirmation of the act, without any exception in the cases of infants, insane persons, or those under the natural disabilities, which exceptions by the strict rules of law ought to be provided for in every case of this

<sup>40</sup> See below, § 874.

<sup>41</sup> See above, § 807.

<sup>42</sup> *Col. Recs. of Georgia*, XIV, 255.

nature; it is therefore our further will and pleasure and you are hereby directed and required to recommend to the council and assembly of our said colony of Georgia to pass an act for establishing a less exceptionable method of enforcing the cultivation of lands and for erecting a court of commission before which the several persons claiming lands to the southward of the River Alatamaha [Altamaha] by virtue of patents granted under the seal of our province of South Carolina are to make and substantiate their respective claims within the space of twelve months from the time of passing such acts; and providing that, in case the grantees or others claiming under them shall neglect to establish their grants before such commissioners, the lands shall become forfeited and be revested in us, our heirs, and successors, without any further or other process.

Georgia: Sept. 11, 1767.

#### 809. SUSPEND FORFEITURES OF LAND PENDING REPORT

And we do hereby enjoin you to FORBEAR the taking advantage of any penalties or forfeitures against any of the present planters or inhabitants of our island of Jamaica for not manuring or planting of their lands according to the time heretofore limited or appointed them for the same,<sup>43</sup> until you shall have represented the true state of that affair unto us, OUR Commissioners of our Treasury, and sent a duplicate THEREOF to our Council for Foreign Plantations (which you are accordingly with all convenient speed to do) and received our further commands and directions therein.

A—Omit OUR . . . THEREOF, and substitute: “by one of our principal secretaries of state and”.

B—Omit from beginning through FORBEAR and substitute: “We do hereby authorize you to forbear (if you shall think fit)”.

Jamaica: 1670-74; 1674-81 A; 1681-1701 A, B.

#### 810. HEAD-RIGHTS FOR SERVANTS

Our will and pleasure is that all servants that shall come or be transported to our said [island, colony] shall serve their respective masters for the term OF four years from the time of their LANDING, AND every person that shall carry or transport servants thither shall

<sup>43</sup> See below p. 575, note 46.

for every servant so carried and transported have set out to him upon the landing and employment of the said servant THIRTY acres of land, to have and to hold to him the said master, his heirs, and assigns FOREVER; and the said servants shall at the end of the said term have likewise THIRTY acres of land set out and assigned to every of them respectively, to have and to hold to them and every of them, their heirs, and assigns forever.

A—Omit ~~OF . . . LANDING~~, and substitute: “prescribed by law of that our colony.” Omit THIRTY in both places, and substitute: “fifty”. Add at end: “under the rents and duties usually paid and received.”

B—Omit AND . . . FOREVER.

Jamaica: 1670–1734.

Virginia: 1679–82 A; 1682–1738 A, B.

## 811. CULTIVATION OF LAND TO BE MADE COMPULSORY

And whereas it is a great hindrance to the settling of our said island that large tracts of land have been granted to particular persons, a great part of which remain uncultivated, you are to endeavor to get a law passed to oblige all persons that have such lands to plant and cultivate the same within three years or dispose of the same to such persons as will undertake to do it, otherwise such lands to revert to us to be regranted as we shall see cause.

Jamaica: 1715–18; (§ 812).

## 812. CULTIVATION AND LIMITATION OF JAMAICA LAND GRANTS (I)

And whereas it hath in all times been a very great hindrance to the peopling and settling of our said island that large tracts of land have been engrossed by particular persons, a great part whereof still remains uncultivated, whereby the island is deprived of many inhabitants that would otherwise have settled there and have greatly contributed to the security, wealth and defense thereof; now, having taken the said inconvenience into our princely consideration, and being mindful to provide against so great an evil for the future, we do hereby in a very particular manner recommend to you to use your best endeavors to get a law passed in the most effectual terms for obliging all persons already possessed of any lands in our said

island to plant and cultivate the same within the space of three years or to dispose of the same to such persons as will undertake to do it, and in default thereof that such lands may revert to us to be REGRANTED as we shall see cause. And it is our express will and pleasure that no grant of lands shall be made by you in our behalf to any person already possessed of a thousand acres or more within our said island and that no person whatever shall for the future be capable of holding by any grants hereafter to be made in our behalf more than a thousand acres as aforesaid and that all future grants shall be expressly upon condition that the land granted shall be cultivated within three years or else revert to us, our heirs, and successors.

A—Add at end: “and that at the end of the first year after your arrival you shall send an exact and particular account to our Commissioners for Trade and Plantations of all the rents and arrears due to us, our heirs, and successors and of your proceedings in the levying and collecting the same”.

Jamaica: (§ 811); 1718-22; 1722-52 A; (§ 813).

### 813. CULTIVATION AND LIMITATION OF JAMAICA LAND GRANTS (II)

[First part follows text of § 812, above, through REGRANTED and then continues as follows:] for that purpose. And you are to acquaint the council and assembly that as his Majesty hath been graciously pleased to comply with everything which they thought necessary to request for the security and defense of the inhabitants of his Majesty's said island, so his Majesty doth expect that they shall on their part comply with such measures as his Majesty judges necessary for their own happiness and security; but in case they shall be so little sensible of their own welfare as to neglect or refuse the passing the same into a law, you are in his Majesty's name hereby directed immediately to inform his Majesty thereof, that the same may be laid before the parliament of Great Britain for their consideration.

We do likewise in his Majesty's name hereby direct that no grant of land shall be made by you on his Majesty's behalf to any person whatsoever already possessed of one thousand acres or more within his Majesty's said island, and that no person whatsoever for the

future shall be capable of holding by any grant hereafter to be made on his Majesty's behalf more than one thousand acres as aforesaid, and that no grant be for the future made but upon this express CONDITION that each grantee shall have and maintain one white man for every hundred acres he shall have granted unto him, and that he do annually pay the usual quit-rent for every hundred acres so to be granted.<sup>44</sup>

A—After CONDITION add: "that the land granted shall be cultivated within three years or else revert to his Majesty, his heirs, and successors, and". Add at end: "and you are at the end of the first year after your arrival to send an exact and particular account to the Commissioners for Trade and Plantations of all the rents and arrears due to his Majesty, his heirs, and successors, and of your proceedings in levying and collecting the same".

Jamaica: (§§ 811, 812); July 31, 1735-1738; 1738<sup>45</sup>—Rev. A.

### 814. THE ROYAL DEMESNE IN JAMAICA (I)

And whereas by our former instructions to Sir Thomas MODYFORD, we were pleased to suspend the setting apart of four hundred thousand acres of land for our royal demesne,<sup>46</sup> you are before any-

<sup>44</sup> For other parts of this additional instruction of 1735 see § 556.

<sup>45</sup> Both §§ 812 and 813 appear in the general instructions of 1738.

<sup>46</sup> The instructions of 1661/2 to Lord Windsor contained the following directions. "And therefore as well for the bearing of such like expenses [for surveys, etc.] as for a mark of our sovereignty in and over the said island, you are to set out four hundred thousand acres of land for our royal demesne (vizt.) one hundred thousand acres in every quarter of the island,—the same to be preserved and improved to the best advantage for the use of us and our successors." C. O. 324<sup>1</sup>, pp. 37-56. The instructions of 1663/4 to Sir Thomas Modyford contained the following clause: "And whereas in our instructions to the Lord Windsor we appointed him for the defraying of the said expenses and for a mark of our sovereignty over that our island to set out and allot to us 400,000 acres of land for our royal demesne, you shall declare that for the encouragement of the planters and their better accommodation we are content for the present to suspend the appropriation of any such allotment to ourselves or disposal thereof or any other part or parts, but to such as have already planted or will hereafter manure and plant within the space of five years after the grant thereof, which said allotments or proportions now planted or hereafter to be planted you shall secure to the respective proprietors and planters making them authentic grants thereof under the broad seal of that our island to them their heirs and successors in free and common socage reserving to us such rents thereupon as shall be thought fit by you and the council in the most sufficient manner that may be and to their entire satisfaction therein, to the end that they may rest secured of a quiet and a peaceable possession thereof with no apprehension of future molestation or dispossesion: and to the end we may perfectly understand how the foresaid allotments and proportions are set out you shall cause a survey to be taken and kept of the whole island and a register of the several plantations which are or shall be so settled that the bounds thereof may be well known and distinguished for the avoiding all

thing be further done therein to inform yourself what lands there are yet remaining undisposed of and how conveniently SEATED, and to inform us AND our Commissioners of our TREASURY and our Council for Foreign Plantations whether it may be necessary or advantageous to continue the former suspension for a longer time or not. And if you find there shall be no reason for the continuance of the same, then you shall set apart such quantities or proportions of land for our service as you shall with the advice of our council think most fit and dispose thereof for our best profit and advantage.

A—After MODYFORD add: “and Sir Thomas Lynch.” Omit SEATED and substitute: “leased.”<sup>47</sup> Omit AND . . . TREASURY, and substitute: “by one of our principal secretaries of state.”

Jamaica: 1670–74; 1674–78 A; (§ 815).

### 815. THE ROYAL DEMESNE IN JAMAICA (II)

Whereas by our instructions heretofore given to Sir Thomas Modyford and Sir Thomas Lynch we were pleased to suspend the setting apart of four hundred thousand acres of land for our royal demesne, but by our instructions to our present governor, the Lord Vaughan, did require him before anything were done further therein to inform himself what lands there were yet remaining undisposed of and how conveniently seated, and to inform us whether it might be necessary or advantageous to continue the former suspension or not, and if he found no reason for the continuance of the same, then to set apart such quantities or proportions of lands for our service as he should with the advice of the council think most fit and dispose thereof for our best profit and advantage; and whereas we have as yet received no account from the said Lord Vaughan concerning the premises, you shall inform yourself from him what he hath done therein and proceed thereupon according to the foresaid directions given to the said Lord Vaughan.

Jamaica: (§ 814); 1678–81.

future contentions and disputes; and you shall cause a copy of the survey to be sent to us so soon as possibly you can, remembering that what strangers you admit into the plantations be mingled with those of our own subjects and not kept in colonies apart by themselves, for avoiding factions and divisions.” C. O. 324: 1 pp. 109–127.

<sup>47</sup> A clerical error for “seated” (?). See below, § 815.

### 816. DISPOSAL OF LANDS IN NEW ENGLAND

And whereas there are great tracts of lands within our said territory and dominion yet undisposed of, and other lands, tenements, and hereditaments for which our royal confirmation may be wanting, we do hereby authorize you to dispose of such lands for a moderate quit-rent, not under two shillings sixpence for every hundred acres, and to reserve such acknowledgments unto us for the confirmation of other lands, tenements, and hereditaments as you shall think most equitable and conducing to our service.

New England: 1686-89.

### 817. LIMITATION ON LAND GRANTS IN MASSACHUSETTS

You are to take all possible care in the granting of any lands within our province under your government not already disposed of that such limitations and methods be observed as may best tend to the safety and improvement of our said province.

Massachusetts: 1702-57.

### 818. LIMITATION ON LAND GRANTS IN NEW HAMPSHIRE

Whereas great inconveniences have arisen in many of our colonies in America from the granting excessive quantities of land to particular persons which they have never cultivated and have thereby prevented others more industrious from improving the same; to prevent the like inconveniences in the province under your government, in all grants of land to be made by you, by and with the advice and consent of our council there, you are to take especial care that no grants be made to any person but in proportion to his ability to cultivate the same, and that proper clauses be inserted for vacating the said grants on failure of cultivation or payment of quit-rents reserved thereon; and you are hereby directed not to grant to any person more than fifty acres for every man, woman, or child of which the grantee's family shall consist at the time such grant shall be made.

New Hampshire: 1741-74; (§ 765).

### 819. ANNUL EXCESSIVE LAND GRANTS IN NEW YORK

And whereas we have also been informed by the forementioned representation of the state of that province <sup>48</sup> that many exorbitant grants of vast tracts of land have been made IN the counties of Ulster and Orange within our said province and in those parts next adjacent to our province of New Jersey upon trifling CONSIDERATIONS without any reservation of competent quit-rents to us or any obligation upon the respective grantees to cultivate and improve the same as reason requires, by means whereof our interest has been greatly prejudiced and the extending, settling, and improving our SAID province must of necessity be in great measure obstructed; we do hereby direct and require you to put in practice all methods whatsoever allowed by law for the breaking and annulling of the said exorbitant, irregular, and unconditioned grants; and in case of any difficulty therein you are to represent unto us by our forementioned Commissioners for Trade and Plantations whatever you judge may be further conducive to the effecting of so necessary a work. And further, for the prevention of all such like inconveniences hereafter, we also hereby direct and order that for the future you pass no grants of land within our said province of New York unto any person whatsoever under a less reservation of quit-rent than 2s. 6d. for every hundred acres, nor without an obligation upon the grantees to plant, settle, and effectually cultivate the same within THE space of three years at the FURTHEST under the penalty of forfeiture. AND it is our further will and pleasure that no more than one thousand acres be granted to any one PERSON and that in the quantity of acres granted to every person due regard be had to the number of persons of which such grantees' families shall consist and of his ability to cultivate the same.

A—Omit IN . . . CONSIDERATIONS, and substitute: "of late years and particularly some in the Mohawk country". Omit OUR . . . SAID, and substitute: "the frontiers of that province are in danger of being weakened by the desertion of the Mohawks and other neighboring Indians and the improvement and peopling of the whole". Omit from AND to the end.

<sup>48</sup> The representation referred to in the additional instruction of 1698 was that of the Board of Trade, Oct. 19, 1698, *N. Y. Col. Docs.*, IV, 385–396 (see especially pp. 391–394). The representation referred to in 1753 and after is that accompanying the draft of instructions to Governor Osborn, July 5, 1753, *ibid.*, VI, 788–791; *Acts, Privy Coun., Col.*, 1745–66, p. 210.

B—After PERSON add: “either in his own name or in the name of any other person in trust for him or her”.

C—Omit THE . . . FURTHEST and substitute: “a reasonable time”.

New York: Nov. 10, 1698 A; (§§ 820–22); 1753–70; 1770–71 B; 1771–74 B, C; (§ 765).

## 820. REGRANT LANDS PREVIOUSLY RESUMED BY CROWN

Whereas we have thought fit by our order in council of the 26th of June, 1708, to repeal an act passed at New York the 27th of November, 1702, entitled *An Act for Repealing Several Acts of Assembly and Declaring Other Ordinances Published as Acts of Assembly to be Void*;<sup>49</sup> and whereas by the same order we have likewise thought fit to confirm and approve an act passed at New York the 2nd of March, 1698/9, entitled *An Act for Vacating, Breaking, and Annulling Several Extravagant Grants of Land Made by Colonel Benjamin Fletcher, Late Governor of This Province under His Majesty*,<sup>50</sup> by the confirmation of which act several large tracts of land (as by the said act will more fully appear) are resumed to us and are in our disposal to regrant as we shall see occasion; our will and pleasure therefore is THAT you may regrant to the late patentees of such resumed grants a suitable number of acres, not exceeding two thousand to any one person; and that in such grants as well as in all future grants there be a reservation to us, our heirs, and successors of a yearly quit-rent of two shillings and sixpence for every hundred acres, with a covenant to plant, settle, and effectually cultivate at least three acres of land for every fifty acres within three years after the same shall be so granted upon forfeiture of every such grant.<sup>51</sup>

A—Omit from THAT to the end, and substitute: “that if any part of such resumed lands shall as yet remain undisposed of, you may regrant to the late patentees of such resumed grants or to any persons who shall apply for the same a suitable number of acres, not exceeding one thousand to any one person.”

New York: July 20, 1708–1753; 1753–74 A; (§§ 765, 819).

<sup>49</sup> *Col. Laws of N. Y.*, I, 523.

<sup>50</sup> *Ibid.*, p. 412.

<sup>51</sup> The rest of this additional instruction is in §§ 761, 852, and 853.

**821. PREVENT EXORBITANT LAND GRANTS IN NEW YORK**

Whereas many exorbitant grants of vast tracts of land have been made of late years without any reservation of competent quit-rents unto us, or any obligation upon the respective grantees to cultivate and improve the same as reason requires, which said exorbitant grants have very much obstructed the production of naval stores, the improvement and peopling of our said province, and have been attended with many other inconveniences; wherefore, for prevention of the like for the future, our will and pleasure is that you do not pass any grant of land within our said province of New York unto any person whatsoever under a less reservation of quit-rent than two shillings and sixpence for every hundred acres, nor without an obligation upon the grantee to plant, settle, and effectually cultivate at least three acres of land for every fifty acres so taken up within the space of three years at the furthest under the penalty of forfeiting every such grant.

New York: 1708-9; (§ 822).

**822. AVOID DEVELOPMENT OF LARGE TRACTS**

And whereas it hath in all times been a very great hindrance to the peopling and settling of our said province that large tracts of land have been engrossed by particular persons, a great part whereof remaining uncultivated, the province is thereby deprived of many inhabitants that would otherwise have settled there; now we having taken the said inconvenience into our consideration and being especially minded to provide against so great an evil for the future, it is our express will and pleasure that in all grants of land to be made by you for the FUTURE you do take especial care for the reservation of our quit-rents and for settling and cultivating the said lands agreeable to such laws as are now in force in our said province for that purpose.

A—Omit now . . . FUTURE, and substitute: “in order to remedy this inconvenience for the future, it is our will and pleasure that in all grants of land to be made by you, you do not grant more than one thousand acres to any person either in his own name or in the name of any other person in trust for him and that.”

New York: (§ 820); 1727-53; (§ 819).      Virginia: (§ 839); 1728-56; 1756-74 A; (§ 765).

### 823. PROCEEDINGS AGAINST FRAUDULENT GRANTS IN NEW YORK

And when you shall have made a careful and diligent inquiry to find out the present possessors of lands within our said province claiming to hold under grants derived from us or our predecessors, in case any of the said grants shall appear to you to have been obtained fraudulently and that the quit-rents and other conditions upon which the grants were made have not been paid or complied with, or in case any persons shall have taken out grants and not seated or cultivated the lands nor paid quit-rents for the same agreeable to the terms of their grants; in such cases you shall give public notice to all such possessors of fraudulent grants whereon the quit-rents and other stipulated conditions have not been complied with, or such as claim lands by virtue of their having possession of them for some time without any REGARD TO patents, and also to all such as have taken out grants and yet have not paid quit-rents or cultivated the lands, that they may be forthwith prosecuted; and you are accordingly to certify the same to our attorney general and direct him to proceed against such defaulters in order to vacate and supersede the grants and recover possession by due course of law of the said lands they now wrongfully hold; and it is our further will and pleasure that you do transmit unto our Commissioners of our Treasury and to our Commissioners for Trade and Plantations a full and circumstantial account of all your proceedings in the several matters hereinbefore mentioned, relative to quit-rents and grants of land, to the end that we may give such orders and directions therein as the nature and circumstance of the several cases may particularly require.

A—Omit REGARD TO and substitute: “regular”.

New York: 1753-65; 1765-Rev. A.

### 824. TERMS OF LAND GRANTS: NOVA SCOTIA

And whereas it will be of advantage to his Majesty's service and highly beneficial to the trade of Great Britain that the said province of Nova Scotia be peopled and settled as soon as conveniently may be; as an encouragement to all his Majesty's good subjects that shall

be disposed to settle themselves and their families there, you are hereby directed to make grants of such lands in fee simple as are not already disposed of by his Majesty to any person that shall apply to you for the same, reserving nevertheless to his Majesty, his heirs, and successors an annual quit-rent of one shilling or of three pounds of hemp, clear, bright, and water-rotted, for every fifty acres so granted, at the election of the grantee, the said rent to commence three years after the making the grant and not before. You are to take especial care that there be a clause inserted in all the said grants declaring that if any grantee shall refuse or neglect to pay the abovementioned rent for the space of three years after the same shall become due, his patent shall thenceforth be null and void to all intents and purposes whatsoever.

But as great inconveniences have arisen from suffering any single proprietor to possess too large tracts of land in his Majesty's plantations; it is his Majesty's express will and pleasure that for the better settling and peopling the colony under your government, that [sic] you do not upon any pretense whatsoever grant unto any one person above the number of 500 acres, it being his Majesty's intention that no person whatsoever either in his own name or any other's in trust for him do hold any more than 500 acres as aforesaid until his Majesty's further pleasure shall be known thereupon. And in all such grants of land as you shall hereafter make you are to have particular regard to the profitable and unprofitable acres, that is to say, that no man shall have his whole grant run lengthways upon the banks of a river, but that a due proportion of what shall be granted to him do run from the river upwards into the country.

And whereas it is and hath been a common practice in his Majesty's plantations in America for persons to take out patents for sundry tracts of land without being in any condition to cultivate the same; you are hereby directed to cause a clause to be inserted in every grant of land by you to be made as aforesaid, whereby the said grant shall become void and null to all intents and purposes if the grantee or his assigns do not cultivate, enclose, plant, or improve at least one tenth part of the lands granted within the space of three years to be accounted from the date of the patent, and so progressively one other tenth part within the space of every other subsequent three years, until the whole tract of land contained in the said patent shall be cultivated, enclosed, planted, or improved.

## 825. REQUIREMENTS FOR CLEARANCE AND CULTIVATION IN NOVA SCOTIA

And it is our further will and PLEASURE that the grantees be likewise obliged by these said grants <sup>52</sup> to clear and cultivate one third part of their lands within the space of ten years, another third part within the space of twenty years, and the remaining third within the space of thirty years from the date of their grants or otherwise to forfeit their right to such land as shall not be actually under improvement and cultivation at the time the forfeiture shall be incurred, taking care that in all the abovementioned grants or any other hereafter to be made by you as aforesaid it be a rule strictly to be enforced that no one person possess more than one thousand acres in his own name.

A—Omit from beginning through PLEASURE (See below, § 834).

Nova Scotia: (§ 824); 1749–56; 1756–64 A; (§ 760).

## 826. FURTHER CONDITIONS IN NOVA SCOTIA GRANTS

And it is likewise our further will and pleasure that a clause be inserted in each grant declaring that if any grantee shall refuse or neglect to pay the aforementioned quit-rent <sup>53</sup> for the space of three years after the same shall become due, his patent shall become null and void to all intents and purposes; and that the grantees should likewise be obliged to plant such a necessary part of his or her lands as you shall think proper with hemp; and as an encouragement for raising the same, you are hereby directed to give such premiums as you shall judge necessary to such persons as shall produce the largest quantity in one year upon their own lands.

Nova Scotia: (§ 824); 1749–64; (§ 760).

## 827. ADDITIONAL LAND GRANTS IN NOVA SCOTIA

And it is our further will and pleasure that all such persons as shall become settlers in the said province, as aforesaid, shall have further grants of land made to them as their families or their

<sup>52</sup> See §§ 766, 769–773, 834, 886, etc.

<sup>53</sup> See below, §§ 832, 834.

abilities to cultivate the same shall increase; and that all newcomers have likewise grants made to them on the like conditions of land remaining ungranted within the said townships, or in such others as you shall by and with the advice and consent of our council think proper to lay out in any other parts of our said province.

Nova Scotia: 1749-56, (§ 834).

### 828. ERECT PUBLIC BUILDINGS AT CHEBUCKTO

And whereas it has been represented to us that the harbor of Chebucto in our said province is conveniently situated for the seat of government, it is therefore our will and pleasure that you do forthwith cause proper buildings to be erected, the towns to be by you laid out as aforesaid at our said harbor of Chebucto for the accommodation and meeting of the necessary officers of government and helping of public offices, as also an house to be erected for you or the commander in chief for the time being and other officers.

Nova Scotia: 1749-52.

### 829. GRANT LANDS ON NOVA SCOTIA MAINLAND

You are ALSO to encourage settlements and lay out townships and make grants of land in like manner and on the like conditions as are herein before mentioned, within that part of our said province which extends north from the peninsula to the River St. Lawrence, particularly at the River St. John's on the north side of the Bay of Fundy, for the better cultivating a friendship with the Indians inhabiting those parts and preventing the designs of the French.

A—After ALSO add: "as soon as the circumstances of the said province shall admit thereof and you shall have received his Majesty's further directions."

Nova Scotia: 1749-52; 1752-56 A; 1756-64.

### 830. GET FRENCH TO REMOVE FROM ANCIENT LIMITS OF NOVA SCOTIA

And if any of the subjects of the French king are already settled or may hereafter settle themselves upon any lands comprehended

within the ancient limits of our said province ACCORDING to the grant from King James the First to Sir William ALEXANDER, you are to use your utmost endeavors to oblige them to remove and assert his Majesty's right to all the territory comprehended within the said limits.

A—Omit ACCORDING . . . ALEXANDER.

Nova Scotia: 1749–52; 1752–64 A.

### 831. UNGRANTED LANDS IN NOVA SCOTIA NOT TO BE OCCUPIED

And it is our further will and pleasure that you do IMMEDIATELY upon your arrival in our said PROVINCE cause a proclamation to be published strictly forbidding any person or persons whatsoever to possess themselves of any cultivated lands within our said province without a grant from you or the commander in chief of the said province for the time being first had and obtained, under such severe penalty as you, by and with the advice and consent of our council, shall think proper.

A—Omit IMMEDIATELY . . . PROVINCE.

Nova Scotia: 1749–56; 1756–Rev. A.

### 832. GRANT LANDS IN FEE SIMPLE WITH QUIT-RENT RESERVATION

And it is our further will and pleasure that as soon as the said lands shall have been set apart as aforesaid,<sup>54</sup> you do pass proper grants for the same in fee simple under the seal of our said province of Nova Scotia; in which said grants as well as in all others hereafter to be made by you, you are to take care that there be a reservation of one shilling sterling per annum for every fifty acres payable at the expiration of ten years from the date of each grant.

Nova Scotia: (§ 824); 1749–56; (§ 834).

### 833. REPORT ON COMPLIANCE WITH TENURIAL CONDITIONS

And you are strictly to require and enjoin the register, surveyor, or other proper officer or officers to make inquiry from time to time

<sup>54</sup> See §§ 766, 769–773, 886, etc.

and as frequently as possible whether the grantees of land within the said province do punctually comply with the terms of those grants, and to make report to you thereof in writing, which said reports you are to transmit to our Commissioners for Trade and Plantations, when and as often as opportunities offer.

Nova Scotia: 1752-64.

### 834. NOVA SCOTIA LAND GRANT TERMS IN 1756

Whereas great inconveniences have arisen in many of our colonies in America from the granting excessive quantities of lands to particular persons who have never cultivated the same and have thereby prevented others more industrious from improving such lands; to prevent the like inconveniences within our province of Nova Scotia, you are to take especial care that no grants be made to any person but in proportion to his ability to cultivate the same; and as the number of persons in each grantee's family will be the most reasonable measure for your judgment in this particular, you are hereby directed to observe the following method in all grants to be made by you, viz:

That one hundred acres of land be granted to every person being master or mistress of a family for himself or herself, and fifty acres for every white or black man, woman, or child of which such person's family shall consist at the actual time of making the grant, subject to the payment of a quit-rent of one shilling per annum for every fifty acres, such quit-rent to commence at the expiration of ten years from the date of each grant.

[Here follows § 825, "Requirements for Clearance and Cultivation in Nova Scotia."]

That every grantee, upon giving proof that he or she has fulfilled the terms and conditions of his or her grant, shall be entitled to another grant in the proportion and upon the conditions above-mentioned.

Nova Scotia: (§§ 824, 825, 827, 832); 1756-64; (§ 760).

### 835. FRENCH SYSTEM OF LAND GRANTS RESTORED IN QUEBEC

Whereas it hath been represented unto us that the terms and conditions under which you are by our royal instructions to you

authorized and directed to make grants of lands within our province of Quebec under your government have been found to be inconvenient and inadequate, and that it would be more for our advantage and for the benefit of our subjects inhabiting in and resorting to our said province if the ancient mode of granting lands which prevailed under the French government before the conquest and cession of the said province was to be adopted; we therefore taking the same into our royal consideration, and being desirous to promote as far as in us lies the welfare and prosperity of our said province, have thought fit to revoke and do hereby revoke and annul all such parts of our said instructions to you and every clause, matter, and thing therein which contain any powers or directions in respect to the granting of lands within our said province;<sup>55</sup> and it is our will and pleasure and you are hereby authorized and empowered to grant with the advice of the council of our said province, the lands which remain subject to our disposal in fief or seigneurie, as hath been practiced heretofore antecedent to the conquest thereof; omitting however in such grants so to be made by you the reservation of the exercise of such judicial powers as hath been long disused within our said province. And it is our further will and pleasure that all grants in fief and seigneurie, so to be passed by you, as aforesaid, be made subject to our royal ratification and also be registered within our said province in like manner as was practiced in regard to grants held in fief and seigneurie under the French government.

Quebec: July 2, 1771; (§ 836).

### 836. QUEBEC GRANTS TO BE IN FIEF OR SEIGNEURIE

By our commission to you under our great seal of Great Britain you are authorized and empowered with the advice and consent of our council to settle and agree with the inhabitants of our said province of Quebec for such lands, tenements, and hereditaments as are now or shall hereafter be in our power to dispose of. It is therefore our will and pleasure that all lands which are now or hereafter may be subject to our disposal be granted in fief or seigneurie in like manner as was practiced antecedent to the conquest of the said province, omitting however in any grant that shall be passed of such lands the reservation of any judicial powers

<sup>55</sup> The articles revoked for Quebec are: §§ 759–763, 766, 842, 863, 963.

or privileges whatever. And it is our further will and pleasure that all grants in fief or seigneurie so to be passed by you as aforesaid be made subject to our royal ratification or disallowance, and to a due registry thereof within a limited time, in like manner as was practiced in regard to grants and concessions held in fief and seigneurie under the French government.

Quebec: (§ 835); 1775-Rev.

### 837. PLAN FOR LAND DISTRIBUTION IN ST. JOHN

The annexed copy of our order in our Privy Council on the 26th day of August, 1767,<sup>56</sup> will fully inform you of the plan we have thought fit to adopt for the settlement of our said Island of St. John, and for the distribution of lands there under all descriptions; you will therefore be particularly careful to carry the said plan into full execution, and more especially in laying out the lands we have thought fit to reserve for the towns within our said island, taking care that all reservations whatever for public uses be made justly and exactly so as fully to answer our royal intentions therein.

St. John: 1769-Rev.

### 838. NEW METHOD OF GRANTING LAND IN VIRGINIA

And whereas it has been proposed that for preventing the taking up of land for the future by such as do not make use of it, to the exclusion of those who would plant and cultivate the same for the benefit of the country and the increase of our revenue and of the trade of this kingdom, the terms of granting land be for the future altered and that none shall acquire a right by merely importing or buying of servants, but that whoever will sit down and plant on any vacant piece of land there shall have one hundred acres granted to himself and the like quantity for each laboring person that he shall carry on or engage to bring on that plantation within three years from the date of his patent, under the yearly quit-rent of two shillings for every hundred acres, to be paid unto us, our heirs, and successors; provided always that if, after the expiration of the said three first years, he have not actually (and so continue to keep)

<sup>56</sup> See *Acts, Privy Coun., Col., 1766-83*, pp. 56-80.

upon his said plantation the complete number of hands or tithables now proposed, he shall then either pay unto us, our heirs, and successors as aforesaid, ten shillings a year for every hundred acres contained in his patent more than the hands or tithables that he has upon it, or surrender the same unto us, our heirs, and successors at his own choice; and on the contrary, if by the increase of his stock he shall increase the number of hands or laboring persons in his family above the proportion now proposed, there shall be then granted to him (if he desires it) an additional hundred acres of land for each additional hand that he shall have above his first number upon the same condition still of increasing his rent or surrendering upon the lessening of the number of his said hands; and provided also that wheresoever sufficient distress shall not be found upon any land to answer the quit-rent reserved upon it, there the said land shall return unto us, our heirs, and successors, as if it had never been granted. All of which appearing unto us both reasonable in itself and highly conducing to the advantages of the said colony, you are therefore to consider and advise with the council and assembly there (because of the difficulties which may arise from the customary practice of the former method and its being interwoven, perhaps, with the laws of that colony) how those difficulties may best be removed, and the method now proposed made practicable, and give account thereof unto us and to the Commissioners for Trade and Plantations.

Virginia: 1698-1709; (§ 839).

### 839. RESTORE FORMER METHOD OF GRANTING LAND IN VIRGINIA<sup>57</sup>

Whereas in our instructions to you our governor bearing date at our Court at St. James's the 30th day of April, 1707, in the sixth year of our reign there is a clause in the words following: [here is quoted in full § 838 above]; and whereas it has been represented by the president and council of our said colony that the method of granting of lands **MENTIONED** in the foresaid **CLAUSE** is

<sup>57</sup> This reversal of policy was brought about upon the recommendation of the Board of Trade at the suggestion of President Jennings and the council of Virginia. *Cal. State Paps., Col.*, 1708-9, §§ 216 i, 285; *Acts, Privy Coun., Col.*, 1680-1720, § 1079.

not agreeable to the laws and practice of our said colony; our will and pleasure therefore is that for the future the method of granting of lands in such form and manner and under the like conditions, covenants, and reservations of quit-rents as are by the charter and laws of that our colony allowed and directed to be made, and as were by us permitted to be made before the ~~LIKE~~ instructions as is hereinbefore mentioned was given to Colonel Nott, late governor of that our colony, the thirteenth of April, 1705, in the fourth year of our reign, due care ~~BEING~~ taken that in all such grants of land hereafter to be made, regard be had to the profitable and unprofitable acres, and particularly that every patentee be obliged in the best and most effectual manner to cultivate and improve three acres out of every fifty acres so granted within the term of three years after the passing of such grant; and in case of failure thereof, such grant or grants to be void and of none effect.

A—Omit from beginning through quotation of § 838. Omit ~~MENTIONED . . . CLAUSE~~ and substitute: “as directed by the instructions given to Robert Hunter, Esq., bearing date at St. James’s the 30th of April, 1707.” Omit ~~LIKE . . . BEING~~ and substitute: “instruction to Robert Hunter, as aforesaid; provided the like care be”.

Virginia: (§ 838); Feb. 26, 1709–1710; 1710–28 A; (§ 822).

#### 840. RETURNS OF SURVEYS AND PATENTS REQUIRED

And whereas it has been represented to us that a very irregular practice hath prevailed in our said colony of taking out surveys for lands and neglecting to pass patents for the same, whereby we have been defrauded of our quit-rents, and the lands so surveyed have remained uncultivated; it is therefore our will and pleasure that you do take especial care and give positive directions to the proper officers that immediately upon the return of each survey a patent be made out and passed and a docquet or copy thereof entered in the offices of the auditor general of our plantations and of the receiver general of our quit-rents to the end that such lands may be immediately carried to and borne upon the rent-roll. And you are earnestly to recommend it to the council and assembly of our said colony to make proper provision by law in case it hath not been already done for compelling and obliging the surveyors of land in the several districts of our said colony to make a return

of their surveys into the secretary's office of our said colony within a reasonable time to be limited in such law.

Virginia: 1756-74; (§ 765).

#### 841. LAND GRANTS IN DOMINICA TO BE UNDER DOMINICA SEAL

Whereas by our instructions to our commissioners for the sale and disposal of certain lands in our islands of Grenada, the Grenadines, Tobago, St. Vincent, and Dominica, bearing date the 24th day of March, 1764,<sup>58</sup> we were pleased to direct that all grants of land in our said islands in consequence of sales made by the said commissioners, as also all leases to the French inhabitants in our said islands of St. Vincent and Dominica, should pass under the seal of the government of Grenada; and whereas we have thought fit to revoke and determine such part and so much of our said instructions to our said commissioners as directs grants and leases of lands in our said island of Dominica to be passed under the seal of our said island of Grenada and have ordered that all grants and leases of lands in Dominica should in future be passed under the seal of our said island of Dominica, you are hereby required and enjoined to take care that this our order so far forth as the same concerns you be carried into execution.

Dominica: March [1], 1773-Rev.

Grenada: March [1], 1773.

#### 842. RECORD INSTRUCTIONS ON GRANTING OF LAND

And it is our further will and pleasure that all the foregoing instructions to you<sup>59</sup> as well as any which you may hereafter receive relative to the form and method of passing grants of lands and the terms and conditions to be annexed to such grants be entered upon record with the grants themselves for the information and satisfaction of all parties whatever that may be concerned therein.

East Florida: 1763-73.

Quebec: 1763-7; (§ 835).

Nova Scotia: (§ 844); 1764-73.

West Florida: 1763-Rev.

<sup>58</sup> The reports of the Board of Trade and of the Treasury upon which the instructions to the commissioners were based are printed in *Acts, Privy Coun., Col., 1745-66*, pp. 580-609. A royal proclamation, March 26, 1764, outlining the conditions for the colonization of Grenada and the other islands, is in C. S. Brigham, *British Royal Proclamations Relating to America, 1603-1783 (Transactions and Collections of the American Antiquarian Society, XII)*, pp. 218-224.

<sup>59</sup> This refers to §§ 630, 745, 759-763, 766, 861, 863, 952, 962.

### 843. INSPECT LAND RECORDS

And whereas nothing can more effectually tend to the further improving and settling our said province and to the advancement of our revenue of quit-rents than the establishing a regular and proper method of proceeding with regard to the passing of grants of lands within the same, in order therefore that we may be exactly informed of the present state of our revenue of quit-rents and of the grants of lands within our said province, that the rights of us and our subjects with respect thereto may be ascertained and secured and all disputes now depending quieted and settled; it is our will and pleasure that you do upon your arrival or as soon after as you shall see convenient inspect the several books, entries, and records in the secretary's AND surveyor's offices, and order and direct the clerks or other proper officers to lay before you copies or extracts of all grants or the entries thereof which have been made since the year 1708. And you are to inspect and examine into the accounts of the receivers of our revenue of quit-rents and to order them to lay before you an account of all the quit-rents they have received, at what time, and from whom, distinguishing such accounts as have been audited from those which have not; and in order to prove the truth of those accounts, you are to direct our deputy auditors in the said PROVINCE to give you the particulars of such accounts as they have audited; and that you may be better able to inform yourself what persons have paid their quit-rents and what have not, you are to order the said receivers to lay before you copies or extracts of all receipts which have been given for the payment of QUIT-RENTS, and likewise to exhibit to you all books and vouchers in their possession that belong to any former receivers SINCE the year 1708.

A—Omit AND and substitute: "auditor's, receiver's, or".

B—Omit from beginning through (first) 1708. After PROVINCE add: "and they are hereby required". After QUIT-RENTS add: "since 1716". Omit from SINCE to the end and substitute: "of our said revenue. You are likewise to make strict inquiry into the methods used in our said province in collecting, receiving, and accounting for our quit-rents. And when you shall have informed yourself of all and every of the foregoing particulars you are to transmit a full and explicit account thereof and of all your proceedings

therein to our Commissioners for Trade and Plantations in order to be laid before us".

New York: 1753-65; 1765-Rev. A.

North Carolina: (§ 797); 1754-Rev. B.

#### 844. RECORD BOOK OF NOVA SCOTIA LAND GRANTS

And that his Majesty may at all times be exactly informed of the state of the province, particularly with respect to the lands that shall be granted, you are to cause a book to be fairly kept wherein shall be registered all the grants made by you, specifying the names of the grantees, the number of acres granted, with their situation and boundaries and the quit-rents thereon reserved, together with the date of each respective grant; and you are to transmit to his Majesty by one of his principal secretaries of state and to his Commissioners for Trade and PLANTATIONS transcripts of such registers at least once a year.

A—Omit from beginning through you and substitute: "You are also to cause the said grants to be fairly entered in a book to be kept by a proper officer for that purpose". After PLANTATIONS add: "and to our Auditor of our Revenues in our Plantations".

Nova Scotia: 1719-49; 1749-64 A; (§ 842).

#### 845. AID SURVEYOR GENERAL OF THE WOODS

Whereas we have been graciously pleased to constitute and appoint a surveyor general of all our woods in North America with proper deputies under him, in order the better to secure and preserve for the use of our royal navy such trees as shall be found proper for that service; <sup>so</sup> it is our will and pleasure that you be aiding and assisting to the said surveyor and his deputies, and that you give orders to all officers, civil and military, that they in their several stations and places be aiding and assisting to the said surveyor or his deputies in PREVENTING the destruction of our woods in that province or in punishing such as shall be found offending therein.

A—Omit from PREVENTING to the end and substitute: "the execution of his or their office respectively".

<sup>so</sup> The surveyors general of the woods were: David Dunbar, 1728-1743; Benning Wentworth, 1743-1767; John Wentworth, 1767-Revolution,

Circular: Connecticut, Massachusetts, New Hampshire, New Jersey, New York,  
Rhode Island: June 18, 1728.  
Massachusetts: June 18, 1728—Rev. Nova Scotia: 1729—Rev. A.  
New Hampshire: June 18, 1728—Rev.

#### 846. GET PROVINCIAL ACT PRESERVING TREES FOR NAVY

And whereas we have been informed that great spoils are daily committed in our woods in our province of —, and other parts within your government, by cutting down and converting to private uses such trees as are or may be proper for the service of our royal navy, and it being necessary that all practices which tend so evidently to deprive us of those supplies be effectually restrained; our will and pleasure is that upon consideration of the occasion of such abuses, the methods by which they are carried on, and the inconveniences that attend them, you use your endeavors with our council and the assembly of — to dispose them to pass acts for the better preventing the further spoil of those woods and for preserving a nursery of such trees as may be useful for our service; and in case you cannot prevail with them to pass acts proper and sufficient for those purposes, that you send over hither the heads of such a bill as may be effectual for those ends and fit to be enacted here.<sup>61</sup>

Massachusetts: 1702-15; (§ 847).

New Hampshire: 1702-15; (§ 847).

#### 847. ENFORCE ACTS FOR PRESERVATION OF WOODS

And whereas an act was passed here in the third and fourth years of her late Majesty's reign, entitled *An Act for Encouraging the Importation of Naval Stores from Her Majesty's Plantations in America*,<sup>62</sup> and another passed in the ninth year of the said queen's reign, entitled *An Act for the Preservation of White and Other Pine Trees Growing in Her Majesty's Colonies of New Hampshire, the Massachusetts Bay & Province of Maine, Rhode Island & Providence Plantation, the Narragansett Country & King's Province, & Connecticut in New England, & New York & New Jersey in America, for the*

<sup>61</sup> A royal letter, dated Jan. 19, 1701, in the same words as this instruction was sent to the Earl of Bellomont, governor of Massachusetts, New Hampshire, and New York, with reference to the two first-named provinces. C. O. 5: 909, pp. 348-349; *Cal. State Paps., Col.*, 1701, § 48.

<sup>62</sup> 3 & 4 Anne, c. 11.

*Masting Her Majesty's Navy;*<sup>63</sup> yet nevertheless we have been informed that great spoils are daily committed in our woods in the province of — and other parts within your government, by cutting down and converting to private use such trees as are or may be proper for the service of our royal navy; and it being necessary that all such abuses which tend so evidently to deprive us of those supplies be effectually redressed; it is our will and pleasure that you take care and give in charge that the said ACTS and every clause, article, and proviso therein be strictly and duly complied with.

A—After *Navy*, add: “and also an act passed in the eighth year of his late Majesty's reign, entitled *An Act Giving Further Encouragement for the Importation of Naval Stores and for Other Purposes Therein Mentioned*”<sup>64</sup>

B—After *ACTS* add: “as also that passed in the second year of our reign, entitled *An Act for Better Preservation of His Majesty's Woods in America and for the Encouragement of the Importation of Naval Stores from Thence, and to Encourage the Importation of Masts, Yards, and Bowsprits from That Part of Great Britain Called Scotland*”<sup>65</sup>

Massachusetts: (§ 846), 1715–28; 1728–  
30 A; 1730–Rev. A, B.

New Hampshire: (§ 846); 1715–28;  
1728–30 A; 1730–Rev. A, B.  
New York: (§ 850); 1753–Rev. A, B.

#### 848. FORFEITURES FOR DESTRUCTION OF WOODS

Whereas by an act passed in the eighth year of our late royal father's reign, entitled *An Act Giving Further Encouragement for the Importation of Naval Stores, and for Other Purposes Therein Mentioned*,<sup>66</sup> there are certain forfeitures and penalties inflicted on persons convicted of destroying our woods in America, to be recovered in our admiralty courts there, whereof one moiety is by the said act to be paid to us, our heirs, and successors, and the other moiety to the informer who shall sue for the same; and whereas it has been represented unto us that if we would be graciously pleased to give up our share of the said forfeitures to the informer, it might in some measure prevent such evil practices by giving further encouragement to such as shall detect offenders against the said law;

<sup>63</sup> 9 Anne, c. 22.

<sup>64</sup> 8 Geo. I, c. 12.

<sup>65</sup> 2 Geo. II, c. 35.

<sup>66</sup> 8 Geo. I, c. 12.

we are pleased to condescend thereunto and to grant our share of such forfeitures as shall be incurred for the future upon this account to the informers who shall sue for the same; but as effectual care ought to be taken that our condescension in this particular, instead of conducing to the preservation of our woods in New England, do not induce persons clandestinely to cut down and lay them waste, depending upon collusive agreements with informers; our will and pleasure is that no informer shall receive or be entitled to our moiety of the aforementioned forfeitures but in such cases only where the surveyor general of our woods or his deputy shall certify that he hath actually seized the wood or logs for our use, for which the respective informations were made; you are to take care that this our instruction be punctually put in execution and for that purpose to give due notice thereof to all persons whom it may concern.

Circular: Connecticut, Massachusetts, New Hampshire, New Jersey, New York,  
Nova Scotia, Rhode Island: Sept. 26, 1730.<sup>67</sup>

New Hampshire: Sept. 26, 1730—Rev.      New York: Sept. 26, 1730; 1753—Rev.

#### 849. NURSERY FOR MAST TREES IN NEW HAMPSHIRE

And whereas it has been represented to the Commissioners for Trade and Plantations by David Dunbar, Esquire, Surveyor General of His Majesty's Woods in North AMERICA, that there are certain tracts of woodland in your said government of New Hampshire proper to be reserved as a nursery for masts, yards, and bowsprits for the use of his Majesty's royal navy; it is his Majesty's express will and pleasure and you are hereby directed and required to make inquiry into the circumstances of the said tracts of land, TAKING to your assistance his Majesty's said surveyor or his DEPUTIES and that you make a report of the state of that matter to his Majesty by one of his principal secretaries of state and to the Commissioners for Trade and Plantations as soon as conveniently may be, and that in the meantime you take particular care that no waste be committed nor any grants be made in such tracts until his Majesty's pleasure shall be signified to you thereupon.

A—Omit BY . . . AMERICA. Omit TAKING . . . DEPUTIES.

New Hampshire: 1741–61; 1761—Rev. A.

<sup>67</sup> A copy of this circular instruction was also sent to David Dunbar, Surveyor General of the Woods in North America.

### 850. PRODUCTION OF NAVAL STORES IN NEW YORK

We being informed that our province of New York does abound with vast numbers of pine trees proper for the production of pitch and tar, amongst which are also some of the largest dimensions fit for masts for our first-rate ships of war, and there are likewise great numbers of oaks and other timber trees fit for beams, knees, planks, and other uses in our navy royal; and it being highly for our service and the advantage of this kingdom that all sorts of naval stores be as much as possible produced in our plantations in America and from thence imported hither; you are therefore to apply your utmost care and diligence towards the promoting of so necessary a work; and if in order to the more effectual prosecution and advancement thereof you find it necessary to desire the concurrence or assistance of the general assembly of that province towards carrying on the same or any part thereof, you are accordingly to move them that such reasonable laws may be enacted as will best conduce thereunto, or if that also shall prove insufficient, you are to consider what further assistance may be necessary from hence, whether by act of parliament or otherwise; and you are to transmit to us and to our foresaid Commissioners for Trade and Plantations a particular account of all your proceedings therein and of the obstacles you meet with, and by what means you conceive those obstacles may be best removed.

New York: 1701-53; (§ 847).

### 851. NEW YORK GRANTEES NOT TO BURN WOODS; MAST TREES

And that the production of naval stores in those parts may not receive any impediment by such grants, you are to take care that in all new patents to be made the grantees be restrained under the like forfeiture as aforesaid from burning the woods to clear the land, and that there be a particular reservation of all trees of the diameter of twenty-four inches and upwards at twelve inches from the ground for masts and of such other trees as may be fit to make beams, plank, knees, and for other uses in our royal navy.

New York: 1708-9; (§§ 852, 853).

### 852. NEW YORK GRANTEES NOT TO BURN WOODS

And to prevent any impediment which the production of naval stores in our said province may receive from such grants, you are to take care that in all new patents for land there be inserted a clause to restrain the grantees from burning the woods to clear the land under the penalty of forfeiting their patent; and you are to use your endeavors to procure an act to be passed in the assembly of our province of New York for that purpose.<sup>68</sup>

New York: (§ 851); July 20, 1708-1753.

### 853. RESERVATION OF TWO-FOOT TREES FOR MASTS (I)

And lastly our pleasure is that in the said patents there be likewise a particular reservation to us, our heirs, and successors of all trees of the diameter of twenty-four inches and upwards at twelve inches from the ground for masts for our royal navy, as also of such other trees as may be fit to make plank, knees, &c., for the use of our said navy.<sup>69</sup>

New York: (§ 851); July 20, 1708-1753; (§ 854).

### 854. RESERVATION OF TWO-FOOT TREES FOR MASTS (II)

And it is our further will and pleasure that a clause be inserted in all grants of land to reserve all white or other sort of pine trees fit for masts of the growth of twenty-four inches diameter and upwards at twelve inches from the earth, to us, our heirs, and successors, for the masting of our royal navy, and that no such trees shall be felled or destroyed without our license for so doing first had and obtained, on penalty of the forfeiture of such grant and of the land so granted reverting to the crown.

New York: (§§ 851, 853); 1753-74; (§ 765).

### 855. ENCOURAGE PRODUCTION OF TIMBER AND NAVAL STORES

You shall to the utmost of your power encourage the growth and production of timber, masts, tar, hemp, and other naval stores in

<sup>68</sup> Other parts of this additional instruction are in §§ 761, 820, and 853.

<sup>69</sup> Other parts of this additional instruction are in §§ 761, 820, and 852.

the province of Nova Scotia, and you are to inquire what trees there are in the said province fit for masts for the use of the royal navy, and in what parts of the country they grow, at what distance they are from any rivers, whereby they may be the more commodiously brought down in order to be shipped for this kingdom.

Nova Scotia: 1719-49.

#### 856. RESERVATION OF MAST TREES IN NOVA SCOTIA

And you are in a particular manner to signify his Majesty's express will and pleasure to all the inhabitants that are now or hereafter shall come to settle there and to take care yourself that no trees fit for masts for the future, of the diameter of twenty-four inches and upwards at twelve inches from the ground be cut without his Majesty's particular license.

Nova Scotia: 1719-49.

#### 857. RESERVATION OF WOODLANDS FOR MASTING: NOVA SCOTIA (I)

But as it is his Majesty's pleasure that certain tracts of land which shall be found upon a survey to be most proper for producing of masts and other timber for the use of the royal navy, lying contiguous to the seacoast or navigable rivers, be reserved for his Majesty's service, you are not to grant any lands till such tracts shall have been marked out and set apart for his Majesty's use, not amounting to less than two hundred thousand acres in the whole, in which you shall strictly forbid all inhabitants of Nova Scotia or others that may come there to cut any trees of any dimensions whatsoever, upon pain of his Majesty's highest displeasure and of the utmost penalties the laws can inflict.

Nova Scotia: 1719-31; (§ 858).

#### 858. RESERVATION OF WOODLANDS FOR MASTING: NOVA SCOTIA (II)

Whereas by our 29th instruction to you,<sup>70</sup> we have ordered you not to grant any land until certain tracts which should be found

<sup>70</sup> See above, § 857.

upon a survey to be most proper for producing masts and other timber for the use of our royal navy, lying contiguous to the seacoast or navigable rivers, not amounting to less than two hundred thousand acres in the whole, should have been marked out and set apart for the use of our royal navy; in which said tracts so set apart no person whatsoever was to cut, fell, or destroy trees of any dimensions whatsoever upon pain of our highest displeasure and of the utmost penalties the laws could inflict; and whereas by another instruction to Col. Dunbar, our Surveyor General of our Woods in America and of our Lands in Nova Scotia, we were further pleased to direct the marking out of one hundred thousand acres of land in the country between the Rivers of St. Croix and Penobscot over and above the other two hundred thousand before any land should be granted to private persons; yet as it has been represented to us that the strict observance of those our instructions may be a great discouragement to the settling of our said province, inasmuch as the finding out of proper tracts of woodland for the service aforesaid would require much time and consequently delay if not disappoint the intention of such persons as may be at present disposed to settle in our said province of Nova Scotia, more particularly great numbers of Protestant families from our kingdom of Ireland and the Palatinate of Germany, who are now willing and desirous to become planters there;<sup>71</sup> we are graciously pleased so far to recede from the letter of our aforementioned instructions to you and to Col. Dunbar as to allow that so soon as the said Col. Dunbar shall have marked out any quantity of woodlands for the service of our royal navy, you may grant an equal quantity of land not fit for that service, according to the rules already prescribed by our instructions to such persons as shall be disposed to settle in our said province of Nova Scotia, always taking care that the lands for the use of our royal navy be first marked out and that those intended for private settlements be on such lands only as are not fit for the service aforesaid; and it is our further will and pleasure that no land be granted in our said province of Nova Scotia but under this condition until the whole three hundred thousand acres of woodlands shall have been set out for the service of our royal navy as aforesaid.

Nova Scotia: (§ 857); May 12, 1731.<sup>72</sup>

<sup>71</sup> See below, § 890.

<sup>72</sup> An additional instruction in the same words as the above, except for necessary substitutions, was sent on the same date to David Dunbar, as "Surveyor Gen-

### 859. INQUIRE INTO LOCATION OF MAST-TREES IN NOVA SCOTIA

And it is our further will and pleasure that you do inquire what trees there are in our said province fit for masts for the use of our navy, and in what parts of the country they grow, at what distance they are from any river whereby they may be more commodiously brought down in order to be shipped for this kingdom.

Nova Scotia: 1749-64; (§ 860).

### 860. LAY OUT TRACTS FOR PRODUCTION OF MASTS

It is however, our express will and pleasure that you give directions to the person whose duty it is to make such survey that he be particularly attentive to the surveying and laying out of such tracts of land as shall appear to him to be best adapted to the production of masts and other naval timber; and you are hereby required to take especial care that those tracts be reserved to our use for the supply of our royal navy and not comprehended within the limits of any township hereafter to be erected.

Nova Scotia: (§ 859); 1764-73; (§ 764).

### 861. RESERVATION OF WOODLAND FOR MASTING: QUEBEC

And whereas it hath been further represented to us that a great part of the country in the neighborhood of Lake Champlain and between that lake and the River St. Lawrence abounds with woods producing trees fit for masting for our royal navy and other useful and necessary timber for naval construction; you are therefore expressly directed and required to cause such parts of the said country, or any other within your government that shall appear upon a survey to abound with such trees and shall lie convenient for water carriage, to be reserved to us and to use your utmost endeavor to prevent any waste being committed upon the said tracts by punishing in due course of law any persons who shall cut down or destroy any trees growing thereon; and you are to consider and ad-

eral of our Woods on the Continent of America and Lieutenant Governor of our Province of New Hampshire in New England".

vise with our council whether some regulation that shall prevent any saw mills whatever from being erected within your government without a license from you or the commander in chief of our said province for the time being may not be a means of preventing all waste and destruction in such tracts of land as shall be reserved to us for the purposes aforesaid.

Quebec: 1763-75; (§§ 835, 862).

### 862. RESERVATION OF PINE LANDS FOR MASTS: QUEBEC

It is our will and pleasure, however, that no grants be made of any lands on which there is any considerable growth of white pines fit for masting our royal navy and which lie convenient for water carriage; but that you do cause all such lands to be set apart for our use and proper regulations made and penalties inflicted to prevent trespasses on such tracts and the cutting down or destroying the trees growing thereon.

Quebec: (§ 861); 1775-Rev.

### 863. RESERVATION OF WOODLANDS NEAR FORTS<sup>73</sup>

Whereas it hath been represented unto us that the governors of several of our colonies in America have granted lands away close to the forts belonging to us, by which means the garrisons of such forts have been obliged to pay the proprietors of those lands extravagant prices for wood cut for a necessary supply of fuel, and thereby a great and unreasonable expense has been brought upon the military contingencies; it is our express will and pleasure that you do take especial care that in all warrants for surveying of lands adjacent or contiguous to any fort or fortification, whether such warrant be granted upon an original petition to you in council or upon our order in our Privy Council, there be an express direction to the surveyor that he do reserve to us, our heirs, and successors for

<sup>73</sup> A circular letter from the Board of Trade in almost identical words with this instruction was sent Sept. 2, 1765, to the governors of East Florida, Georgia, New Hampshire, New York, North Carolina, Nova Scotia, Quebec, South Carolina, Virginia, and West Florida. The letter begins slightly differently: "The commander in chief of his Majesty's forces in America having made complaint that the governors, etc". The other differences are minor. C. O. 324: 17, pp. 473-475.

the use of the fort near to which the lands shall lie such a part of the tract petitioned for (being woodland) and in such a situation as the commander in chief of the said fort (with whom he is required to consult and advise in all such cases) shall judge convenient and sufficient for a permanent and certain supply of fuel for such a garrison as the said fort may be able to contain. And it is our further will and pleasure that a regular plot of such reserved land describing the bounds, expressing the quantity of acres, and properly signed and attested by such surveyor, be delivered to the commanding officer of each fort to be there publicly hung up, and a duplicate thereof also recorded in the secretary's office or other proper office of record in our province under your government; and as we judge the due execution of this our order to be essential to our service, you are hereby required to take care that the regulations above prescribed be duly entered upon the council book of our said province as a standing order to all persons who may be entrusted with the powers to which they refer.

New York: 1770—Rev.

South Carolina: 1766—Rev.

North Carolina: 1765—Rev.

West Florida: 1767—Rev.

Quebec: 1768—71; (§ 835).

#### 864. DISCOUNTENANCE SETTLEMENT OF TOBAGO

And whereas we have been informed that divers persons without our leave or allowance have undertaken to make a settlement of the island of Tobago under the protection of a foreign prince, we do hereby charge and require you to take care that no goods, Negroes, or servants be conveyed from any part of your government to the said island for carrying on a plantation there, but that you discountenance the same on all occasions until our further pleasure shall be known.

Barbados: May 3, 1684; (§ 866).

#### 865. NO SETTLEMENT EXCEPT IN BARBADOS

You are not to encourage any planting nor to grant unto any person any lands OR TENEMENTS which now are or hereafter shall be in your power to dispose of in any of our islands under your government except BARBADOS, until you shall receive from us further order therein.

A—Omit OR TENEMENTS and substitute: “tenements or hereditaments”.

B—After BARBADOS add: “and Tobago”.

Barbados: 1673–89 A; 1689–1721; (§ 866); 1722–28 B; 1728–67.

## 866. GRANTING OF LANDS IN TOBAGO

Whereas by the 88th article of our general instructions to you,<sup>74</sup> you are restrained from granting unto any person or persons any lands which now are or hereafter shall be in our power to dispose of in any of our said islands until you receive our further orders therein; AND whereas it has been represented to us that it would very much conduce to the benefit of this kingdom if not only Tobago but the other Caribbee Islands were planted and settled; it is therefore our will and pleasure and we do hereby give you full power and authority with the advice and consent of our council of Barbados to make grants of land in Tobago, to be passed under the seal of our said island of Barbados under the following restrictions: that no grants be made to any of the planters who have settled in Barbados or any other of our Caribbee Islands; that no person have a grant or be allowed to hold by purchase or otherways, or any other person in trust for him, more than three hundred acres of the lands to be disposed of and none less than fifteen; and that every patentee be obliged to cultivate one acre in fifty every year after the date of his patent, and so in proportion for a greater or lesser quantity; and that every patentee be obliged for every forty acres to keep one white man or two white women within a year after the date of his grant, and one white man or two white women for every twenty acres three years after the date thereof; that all persons who shall come to settle in the said island of Tobago be by their grants effectually restrained from planting of any sugars there.

And as we have been informed that the soil of the island of Tobago is very proper for the producing of cocoa, anatto, and indigo, which none of our other plantations do produce in considerable quantities, and which if duly cultivated, might prove of very great advantage to the trade of this kingdom; it is our further will and pleasure that you give all possible encouragement to the planting and cultivating these commodities.

And as we are sensible that the settling of uncultivated lands is

<sup>74</sup> See above, § 865.

not only a work of time but of great expense, it is our will and pleasure that the patentees of these lands be by their grants exempted from the payment of quit-rents for the first three years, after which term you are to take care that they be obliged to pay quit-rents to us at the rate of two shillings and sixpence for every hundred acres, and further that after ten years, the patentees be obliged to pay us, our heirs, and successors, the duty of four-and-a-half percent as in Barbados and the Leeward Caribbee Islands.

A—Omit from beginning through AND.

Barbados: (§§ 864, 865); Nov. [11], 1721–1722; 1722–28 A.

### 867. GRANT NO LAND ON ISLAND OF MATANZA

And whereas it has been represented to us that the island of Matanza is of great importance as it produces materials for making mortar, which may be very much wanted for fortifications and other public buildings, it is therefore our will and pleasure that you presume not, upon any pretense whatever, to make a grant or grants of all or any part of the said island without our especial license for that purpose first obtained.

East Florida: 1763–73.

### 868. GRANT NO LAND FREQUENTED BY SEA COWS

Whereas it hath been represented to us that several parts of the seacoasts of the province of East Florida under your government, particularly at or near the point of land called the Cape of Florida, are frequented and resorted to by the animals called the manati or sea cow, which are valuable from the quantity of oil they produce, and of which great profit is made by the persons carrying on this species of fishery; it is therefore our express will and pleasure that you do not upon any pretense whatever, without our further orders and directions, pass grants of land on those parts of the seacoast of the said province under your government which are frequented by these animals, and where they have their echouries [sic] or landing places; and it is our further will and pleasure that in case any proposals shall be made to you for undertaking and carrying on any such fisheries, which either are or may be discovered within the

limits of the province under your government, you do forthwith transmit such proposals to our Commissioners for Trade and Plantations in order to be laid before us, in which proposals the terms and conditions whereon the proponents are willing to accept either grants or leases of such fisheries together with the rent they are willing to pay for the same are to be particularly expressed.

East Florida: June [6], 1764.

#### 869. NOT TO GRANT LANDS IN GRENADA UNTIL ORDERED

And whereas you are empowered by our commission to you to settle and agree, by and with the advice and consent of our council, with the inhabitants of our said islands for such lands, tenements, or hereditaments as now are or hereafter shall be in our power to dispose of, and them to grant to any person or persons upon such terms and under such moderate quit-rents, service, and acknowledgments to be thereupon reserved unto us, as you by the advice aforesaid shall think fit; it is nevertheless our will and pleasure that you do not upon any pretense whatever exercise or carry into execution any of the said powers until our will and pleasure for the disposal of our property in the said islands be further declared and made known.

Grenada: 1763-71.<sup>75</sup>

#### 870. ROYAL APPROVAL REQUIRED FOR GRANTS IN STANWIX TERRITORY

Whereas it hath been represented to us that some part of the lands ceded to us by the Indians at the congress at Fort Stanwix on the fifth day of November, 1768,<sup>76</sup> do lie within the limits of our province of New York; and whereas it is both just and reasonable that lands the property of which has been acquired by us at a very

<sup>75</sup> But see *Acts, Privy Coun., Col., 1745-66*, pp. 580-609, for an order in council, March 26, 1764, approving a Board of Trade representation and Treasury report on terms for the disposition of land in Grenada and its dependent islands.

<sup>76</sup> The proceedings of the congress at Fort Stanwix in October and November, 1768, are in *N. Y. Col. Docs., VIII*, 111-134. The Indian deed, dated Nov. 5, 1768, together with a map of the boundary line agreed to, is in *ibid.*, pp. 135-137.

considerable expense <sup>77</sup> should be made subject to other terms and conditions than those prescribed for lands in general within our said province; it is therefore our will and pleasure that you do cause all applications or proposals that shall be made to you for a grant or grants of any part of the said lands to be transmitted to us by one of our principal secretaries of state, accompanied with a report from you of the true condition and value of the said lands so petitioned for, to the end that we may give such directions thereupon as shall appear to us to be proper; and it is our will and pleasure that until such proposals and reports shall have been transmitted as aforesaid and until you shall have received our directions thereupon, you do not presume upon any pretense whatever to pass any grants or issue any warrant of survey for any part of the said lands.

New York: 1770-Rev.

### 871. GRANT NO LANDS IN VERMONT

Whereas we thought fit by our order in council of the 20th July, 1764,<sup>78</sup> to declare that the western banks of the River Connecticut, from where it enters the province of Massachusetts Bay as far north as the 45th degree of northern latitude, should be the boundary between our provinces of New York and New Hampshire, and whereas we have further thought fit by our order in council of the 24th July, 1767,<sup>79</sup> to declare that no part of the lands lying on the western side of the River Connecticut within that district heretofore claimed by our province of New Hampshire should be granted until our further pleasure should be known concerning the same; it is therefore our will and pleasure that you do take effectual care for the due observance of the said order in council and that you do not, upon pain of our highest displeasure, presume to make any grant whatever or to pass warrants for the survey of any part of the said lands until our further will and pleasure shall be signified to you concerning the same.

New York: 1770-Rev.

<sup>77</sup> The consideration in goods and money mentioned in the deed amounted to a total of £10,460 7s. 3d. sterling.

<sup>78</sup> See *Documentary History of New York*, IV, 355; *Acts, Privy Coun., Col.*, 1745-66, § 559.

<sup>79</sup> See *Doc. Hist. of N. Y.*, IV, 375-376; *Acts, Privy Coun., Col.*, 1766-83, § 31.

**872. NO GRANTS ON ST. JOHN OR CAPE BRETON ISLANDS**

And it is our further will and pleasure that you do not upon any pretence whatever make any grants of land in our islands of St. John and Cape Breton, or in any other of our islands comprehended within your government without our express orders for that purpose.

Nova Scotia: 1764-73.

**873. LIMITS OF WESTERN SETTLEMENT IN QUEBEC**

The extension of the limits of the province of Quebec necessarily calls forth your attention to a variety of new matter and new objects of consideration: the protection and control of the various settlements of Canadian subjects, and the regulation of the peltry trade in the upper or interior country on the one hand, and the protection of the fisheries in the Gulf of St. Lawrence and on the Labrador coast on the other hand, point to regulations that require deliberation and dispatch.<sup>80</sup>

The institution of inferior judicatures with limited jurisdiction in criminal and civil matters for the Illinois, Poste St. Vincennes, the Detroit, Missilimakinac, and Gaspée has been already pointed out,<sup>81</sup> and the appointment of a superintendent at each of these posts is all that is further necessary for their civil concerns; but it will be highly proper that the limits of each of these posts and of every other in the interior country should be fixed and ascertained, and that no settlement be allowed beyond those limits, seeing that such settlements must have the consequence to disgust the savages, to excite their enmity, and at length totally to destroy the peltry trade, which ought to be cherished and encouraged by every means in your power.

Quebec: 1775-Rev.

**874. GRANT NO LANDS SOUTH OF ALTAMAHIA RIVER**

Whereas it has been represented to us that endeavors are using to obtain from you, our lieutenant governor and commander in

<sup>80</sup> For discussion of some of these matters see §§ 70, 726, 732, 835, 836, 959, 960.

<sup>81</sup> See above, § 433.

chief of South Carolina, grants of land to the south of the River Altamaha; and whereas we have reason to think that any grants to be made between that river and the northern boundary of the Spanish Florida might be looked upon by those Indians, our allies, who make use of that district for the hunting land, as an encroachment upon them and thereby interrupt the good harmony now subsisting between the English and them; it is our will and pleasure that you do not upon any pretense give any grant or warrant of survey for land within the district before described to any person whatsoever without our leave first obtained for that purpose.<sup>82</sup>

South Carolina: Dec. 3, 1736.

#### 875. LAND IN JAMAICA FOR VICTUALLING AGENTS OF FLEET

Whereas it has been represented to us by our Commissioners for Executing the Office of High Admiral of Great Britain "that as our fleet at Jamaica is so considerably augmented, they apprehend there will be a space of ground wanted there near the waterside for erecting a storehouse for lodging the provisions and also for a cooperage, which last will not require less than two or three acres";<sup>83</sup> now it is our will and pleasure that you do immediately cause a grant to Mr. John Gray and Mr. Benjamin Maynard, agents to the Commissioners of the Victualling, or to their agents for the time being, of such a quantity of ground as may be necessary for the aforesaid purposes, if there be any ground belonging to us proper for it. But in case there shall not be any, or not a sufficient quantity of ground there, in our power to grant for this purpose, you are hereby farther commanded to assist the said agents in hiring or purchasing so much ground as they shall want for our victualling service and to offer them your countenance and protection in whatever else they may have occasion to apply to you for.

Jamaica: April 24, 1741.

#### 876. PETITION FOR LANDS ON MERRIMAC RIVER

Whereas Joseph Dudley, Esquire, and others by their petition have humbly prayed our royal grant and confirmation of certain lands

<sup>82</sup> See above, § 807.

<sup>83</sup> See *Acts, Privy Coun., Col.*, 1720-45, § 511.

lying upon the River of Merrimac and the Lake of Winnipesaukee in New England together with the fishing of the said river and lake, you are UPON YOUR ARRIVAL to examine the said petition and to report unto us your opinion what may be fit for us to do therein.

A—Omit UPON YOUR ARRIVAL.

New England: 1686-88; 1688-89 A.

**877. WHARTON'S PETITION FOR LANDS IN MAINE**

And whereas Richard Wharton, Esquire, has likewise made humble suit unto us for our confirmation of certain lands at Pojepscot in the province of Maine,<sup>84</sup> you are likewise to inquire into and examine the state and condition of the said lands, and to make report thereof unto us that our further pleasure may be known.

New England: 1686-88.

**878. ANNEX "EQUIVALENT LAND" TO ADJACENT COUNTIES**

Whereas a petition has been presented to us by Sir Joseph Eyles, Knight, Jonathan Perrie, John Drummond, and Thomas Watts, Esquires, praying that the tract of land granted to them in the province of New York, known by the name of the "Equivalent Land" may be either erected into a county or united to such other contiguous county or counties of the said province as shall be found most convenient;<sup>85</sup> our will and pleasure is that you choose the most convenient county or counties, and that you do annex the said Equivalent Land to such county or counties accordingly.

New York: July 20, 1733.

**879. VAN RENNSLAER'S LAND CLAIMS IN NEW YORK<sup>86</sup>**

Whereas an humble petition hath been presented to us by Captain John Campbell, on behalf of himself and twenty-nine other

<sup>84</sup> See *Cal. State Paps., Col.*, 1685-88, § 276.

<sup>85</sup> See *Acts, Privy Coun., Col.*, 1720-45, § 231.

<sup>86</sup> Documents illuminating this case are in *Acts, Privy Coun., Col.*, 1745-66, §§ 590: 1766-83, p. 597; *Unbound Paps.*, § 685; *N. Y. Col. Docs.*, VII, 743, 950-951; VIII, 575-577.

reduced officers who served in North America during the last war, setting forth amongst other things "that having discovered a large tract of uncultivated ground on the back of the province of New York and near the banks of Hudson River, and being informed that the same remained in the crown, they petitioned the governor for grants thereof according to the proportions ordered by our proclamation of the 7th of October, 1763, but that the agents for Colonel John Van Renselaer, claiming the said lands under an ancient grant before the happy Revolution, having entered a caveat against such grants of the said lands being made or passed, the matter was referred to the council of the said province, who upon hearing the parties resolved that it did not appear with sufficient certainty whether the lands prayed for as vacant were vacant or not, and that therefore the petition ought to be rejected"; AND whereas there hath been likewise presented to us another humble petition in the name of Captain Lewis Ourry, a reduced officer from our Sixtieth or Royal American Regiment of Foot, on behalf of himself and of seventeen other reduced officers who served in America during the late war, praying that the proportion of lands which they are entitled to under our aforementioned proclamation may be located on the same tract with the grants prayed for by Captain John Campbell and the other twenty-nine officers, his associates, the said tract being more than sufficient to satisfy all the CLAIMANTS;<sup>87</sup> and whereas it hath been further represented to us that there is just reason to doubt of the validity of the claim of the said Colonel John Van Renselaer to the lands in question; in justice therefore to the petitioners and in order to remove those obstructions to the better settlement of our province of New York which unwarrantable claims of this nature must of course occasion; we have thought fit to direct and it is our will and pleasure that you do give the necessary directions to the proper officer in the law to commence such suit or action in the case of the claim of the said Colonel John Van Renselaer as may most speedily and effectually bring the said claim into question and decision by due course of law; AND in case judgment shall be given in favor of the said Colonel John Van Renselaer's claim, contrary to the opinion of the law officer who commences the suit, that the said officer do prosecute an appeal in the usual manner

<sup>87</sup> Captain Ourry's petition having been submitted after the Board of Trade had prepared its draft of the instruction this clause (AND . . . CLAIMANTS) was incorporated before the instruction was sent.

from such judgment to us in our Privy COUNCIL.<sup>88</sup> And it is our will and pleasure that the expense of the suit above directed shall be defrayed out of our quit-rents by our receiver general of our said province, to whom the warrant or warrants of our governor in council for such sum or sums as shall be necessarily disbursed on account of the said suit shall be a full and sufficient discharge. And it is our further will and pleasure and you are hereby enjoined and required not to make grants of any part or parts of the aforementioned tracts of lands to any person or persons whatsoever until you shall receive directions for that purpose from us in our Privy Council.

New York: April 24, 1767.

<sup>88</sup> In the draft instruction submitted by the Board of Trade, March 24, 1767, in addition to the omission indicated in the last note, the clause AND . . . COUNCIL was left out and another clause given ordering the governor, in case van Rensselaer's claim should be voided in court, to make grants to Campbell and his associates. C. O. 5: 1130, pp. 386-389. The instruction was altered to the form printed above by the Privy Council committee, April 2, 1767. C. O. 5: 1073, pp. 71-73; *Acts, Privy Coun., Col., 1745-66*, pp. 700-701.

## PART XIV

### GROUP SETTLEMENTS

#### 880. PROPOSED INSTRUCTION REGARDING SWISS IN SOUTH CAROLINA<sup>1</sup>

WHEREAS the Sieur Jean Pierre Purry of Neufchatel in Switzerland was in the year 1725, recommended by our Commissioners for Trade and Plantations to the late Lords Proprietors of Carolina as a person well qualified for the making a settlement of Swiss Protestants in that province; and whereas the several grants of land amounting to 48,000 acres<sup>2</sup> made to him by the said late lords proprietors upon that recommendation being now become void because certain conditions contained therein to be performed by the said lords proprietors were never complied with, the said Purry has lately renewed his application to our said Commissioners for Trade and proposed to settle 600 Swiss Protestants in Carolina, including women and children, at their own expense within the space of six years to commence from Christmas next, upon condition that they be received, treated there, and entitled to the same privileges as our own subjects, and provided we do grant to the said Purry and his heirs in consideration of his trouble, labor, and expense, 12,000 acres of land in that province free from quit-rents; now having considered the said Purry's proposal, together with the opinion of our Commissioners for Trade and Plantations thereupon, we are graciously pleased to agree thereto, upon the following conditions:

First, that the said Swiss, or at least so many of them as are of a competent age for that purpose, do take the usual oaths of allegiance to us upon their arrival in Carolina respectively.

That, after they shall have taken the said oaths, you do grant them lands and settle them in such place and in such manner as

<sup>1</sup> This article was submitted twice, Oct. 21, 1730, and Nov. 30, 1731, with the differences shown in the following two notes, but neither form was sent. A new instruction on this subject was finally sent in 1732 (§ 881). See *Acts, Privy Coun., Col., 1720-45*, § 219.

<sup>2</sup> The draft instruction submitted Nov. 30, 1731, substitutes: "40,000 acres."

you shall judge most conducive to the interest and security of the said province.

But you are to take notice that the said Purry is not entitled to the 12,000 acres of land by him demanded for himself and his heirs until it shall appear to you by certificates from one or more officers of our customs in that province that the said Purry hath imported or caused to be imported into South Carolina according to his proposal 600 Swiss Protestants, including women and children, within the term of six years to commence from Christmas Day next. Upon which certificates you are hereby empowered to grant unto the said Purry and his heirs forever twelve thousand acres of land <sup>3</sup> according to the prayer of his petition.

South Carolina: (Submitted) Oct. 21, 1730.

### 881. SWISS PROTESTANTS IN SOUTH CAROLINA (I) <sup>4</sup>

Whereas the Sieur Jean Pierre Purry of Neufchatel in Switzerland has by petition humbly prayed that his Majesty would be pleased to grant to him, the said Purry, 48,000 acres of land in South Carolina subject to the usual quit-rents reserved upon all lands granted by the crown in his Majesty's said province after the expiration of the first ten years from the date of his grant, and in consideration of this grant has proposed to settle 600 Swiss Protestants in the said province, including men, women, and children, at their own expense within the space of six years to commence from Christmas, 1731; we have considered the said petition and are graciously pleased in his Majesty's name to approve thereof upon the following conditions:

First, that the said Swiss, or at least so many of them as are of a competent age for that purpose do, upon their arrival in Carolina, take the usual oath to his Majesty.

Second, that after they shall have said the oath, you do grant them lands and settle them in such place and in such manner as you shall judge most conducive to the interest and security of the said province.

<sup>3</sup> The draft instruction submitted Nov. 30, 1731, differs from this point to the end and reads: "twelve thousand acres of land subject to the quit-rent reserved by your instructions after the expiration of the first ten years from the date of his grant."

<sup>4</sup> This instruction was submitted June 16, 1732, in this form, and was issued July 22, 1732, except for the clerical error indicated in the next note.

But you are to take notice that the said Purry is not entitled to the grant of forty eighty [sic]<sup>5</sup> thousand acres of land until it shall appear to you by certificates from one or more officers of his Majesty's customs that the said Purry hath imported or caused to be imported into South Carolina according to his proposal 600 Swiss Protestants, including men, women, and children; upon which certificates we do in his Majesty's name authorize and empower you to make a grant of lands to the said Purry, not exceeding 48,000 acres in his Majesty's province of South Carolina, subject to the quit-rents reserved by your instructions after the expiration of the first ten years from the date of this grant and under this further condition that if any of the lands so granted shall not be cultivated within the said space of ten years from the date of this grant, such lands shall in that case at the expiration of the said ten years revert to the crown.

South Carolina: July 22, 1732.

## 882. SWISS PROTESTANTS IN SOUTH CAROLINA (II)

Whereas you were by instruction from our royal consort as Guardian of our Realm and our Lieutenant within the same, bearing date the 22nd day of July, 1732,<sup>6</sup> upon a proposal of the Sieur Jean Pierre Purry for settling 600 Swiss Protestants in South Carolina, including women and children, directed that, upon his producing to you certificates of having imported 600 Swiss Protestants into South Carolina, you should grant to him and his heirs forever forty-eight thousand acres of land, subject to the usual quit-rents reserved upon all lands granted by the crown in our said province after the expiration of the first ten years from the date of his grant, under this further condition that if any of the lands so granted should not be cultivated within the said space of ten years from the date of such grant, such lands should in that case at the expiration of the said ten years revert to the crown; and the said Sieur Purry having by his petition<sup>7</sup> to us set forth that he has already imported and settled one hundred and fifty such Swiss Protestants in South Carolina, and prayed a grant of part of the

<sup>5</sup> This is clearly a clerical error for "forty-eight" which form is given in the draft instruction submitted June 16, 1732.

<sup>6</sup> See above, § 881.

<sup>7</sup> See *Acts, Privy Coun., Col.*, 1720-45, p. 291.

said forty-eight thousand acres in proportion to the number of Swiss already imported, and for the future to have the like grants in proportion to the number of Swiss he shall from time to time import into the said province until the same shall amount to six hundred; we have considered the said petition and are graciously pleased to approve thereof, and it is therefore our will and pleasure that you do grant unto the said Sieur Purry a quantity of land in part of the said forty-eight thousand acres in proportion to the number of Swiss he has already imported, and so from time to time in proportion to such numbers as he shall import and settle in that province, until he shall have imported and settled the full number of six hundred persons according to his proposal, and under such reservations, restrictions, and conditions as by your forementioned instruction you were directed to grant unto him the said full quantity of forty-eight thousand acres, which forty-eight thousand acres shall be forthwith marked out in the lands lying most contiguous to those set apart for the Swiss township; and you are further required to take effectual care that no part of the said forty-eight thousand acres be granted to any person except the said Sieur Purry nor any part of the said township to other persons except the Swiss Protestants intended to be settled there, until our further pleasure thereupon shall be known.

South Carolina: July 20, 1733.

### 883. SWISS PROTESTANTS IN SOUTH CAROLINA (III)

Col. John Peter Purry of Neufchatel in Switzerland, who by our permission hath undertaken the settlement of a certain number of Swiss families in a township marked for that purpose in our province of South Carolina, now known by the name of Purrysburg, and has made a considerable progress therein, having by petition humbly represented to us several matters relating to the welfare of the said settlement;<sup>8</sup> we have taken the same into our royal consideration together with the report of the Lords of the Committee of our Council and of our Commissioners for Trade and Plantations thereupon, and being graciously disposed to grant our protection to the said settlement for the better encouragement thereof, we have thought fit to declare our royal will and pleasure thereupon, and

<sup>8</sup> See *Acts, Privy Coun., Col., 1720-45*, pp. 292-293.

you are hereby directed to cause the lands within the compass of six miles round the township of Purrysburg on that side the river where the township is situated, which were originally intended by our royal instructions to you for the bounds of that township and set apart for that purpose by the proclamation published in our name on the first day of September, 1731, to be forthwith surveyed, notwithstanding any surveys which may have been made thereof since the place for the said town of Purrysburg was pitched upon and marked by the said Col. Purry; which lands, so set apart, shall be reserved for the use of the said town and for such Swiss or other foreign Protestants as the said Col. Purry or his agents have or shall transport to Carolina in order to settle and occupy the same; as also to answer the intended grant of forty-eight thousand acres to him; and whereas some of the most substantial and prudent inhabitants have been or may be employed in directing and assisting others to make their respective settlements, it is our will and pleasure that in consideration of their charges and trouble, they be allowed, and you are accordingly to grant to them respectively, such additional quantities of land within the limits of the aforesaid six miles round the said township of Purrysburg as you shall think an adequate reward for their services; provided always that the additional lands so to be granted to any one single person shall not exceed 300 acres and that their services be first certified to you by the said Col. Purry. You are likewise hereby directed to grant to such of the inhabitants whose lots of land are situated on the rivulet which runs through Purrysburg double lots of land in the said town, in consideration of their extraordinary charges and labor in cleaning the said rivulet and draining a swamp or morass situated within that town, which is become necessary both for health and convenience. And as several foreign Protestants well skilled in the production of silk and wine, who have been obliged to fly their country in Germany and other parts of Europe for the sake of their religion, are willing to go and settle at Purrysburg; it is our will and pleasure that they be reputed and you are to receive them amongst the number of Swiss Protestants which Col. Purry hath obliged himself to carry or cause to be carried to that place, in order to entitle him to the forty-eight thousand acres of land which we have been graciously pleased to allot him in our said province of South Carolina in consideration thereof.

#### 884. SWISS PROTESTANTS IN SOUTH CAROLINA (IV)

Whereas by an additional instruction to our trusty and well-beloved Robert Johnson, Esquire, late governor of our said province of South Carolina, dated the [22nd] of [July], 1732, in the sixth year of our reign, from our late royal consort as Guardian of our Kingdom and our Lieutenant within the same,<sup>9</sup> he was directed and empowered upon Mr. Purry's producing certificates of his having imported into South Carolina 600 Swiss Protestants, including men, women, and children, in our name to grant lands to the said Purry not exceeding 48,000 acres in our said province, subject to the quit-rents reserved by his instructions after the expiration of the first ten years from the date of the grant and on condition that if any of the lands so granted should not be cultivated within the space of the said ten years from the date of the grant, such land should in that case at the expiration of the said ten years revert to the crown; and whereas on the [20th] day of July, 1733, we were graciously pleased by another instruction to the said Robert Johnson, Esquire,<sup>10</sup> to direct him to grant unto the said Sieur Purry a quantity of land in part of the said 48,000 in proportion to the number of Swiss he had then imported, and so from time to time in proportion to such numbers as he should import and settle in that province, until he should have imported and settled the full number of 600 persons under the reservations, restrictions, and conditions aforesaid, which 48,000 acres were to be marked out in the lands lying most contiguous to those set apart for the Swiss township, and to take care that no part of the said 48,000 be granted to any person except the said Sieur Purry, nor any part of the said township to other persons except to the Swiss Protestants intended to be settled there; and whereas in January, 1734/5, we were graciously pleased by a third instruction to the said Robert Johnson<sup>11</sup> to grant additional quantities of land within the limits of the township of Purrysburg, as he should think an adequate reward to such of the most substantial and prudent inhabitants as had been or might be employed in directing and assisting others to make their settlements, provided that such additional lands so to be granted to any one single person should not exceed 300 acres, and that their services

<sup>9</sup> See above, § 881.

<sup>10</sup> See above, § 882.

<sup>11</sup> See above, § 883.

should be first certified to him by the said Mr. Purry; and whereas he was also directed to grant to such of the inhabitants whose lots of land were situated on the rivulet running through Purrysburg double lots of land in the said town in consideration of their extraordinary charges and labor in cleaning the said rivulet and draining a swamp or morass situated within that town; and whereas we have [having?] been given to understand that other foreign Protestants skilled in the production of silk and wine were willing to go and settle at Purrysburg, did signify our pleasure that he, the said governor, should receive them amongst the number of Swiss Protestants which Col. Purry had obliged himself to carry to that place; and whereas the Sieur Purry has complained to us of great neglects of carrying the aforesaid instructions into execution;<sup>12</sup> it is our express will and pleasure that upon your arrival in Carolina, you immediately make inquiry into this affair, and give all due and necessary orders for the putting into execution whatever may have been neglected or omitted with regard to the aforesaid three instructions or any part thereof.

South Carolina: 1738-55.

#### 885. LANDS IN NOVA SCOTIA FOR REDUCED SOLDIERS AND SAILORS

[1] And whereas for the encouragement of such of the reduced officers and private men LATELY dismissed our land and sea service and other our subjects as shall be willing to settle in our said province of Nova Scotia, we have thought fit to cause our royal will and pleasure to be made public:

[2] That fifty acres of land shall be granted in fee simple to any private soldier or seaman free from the payment of any quit-rents or taxes for the term of ten years, at the expiration whereof no person to pay more than one shilling per annum for every fifty acres so granted.

[3] That a grant of ten acres over and above the said fifty acres shall be made to each private soldier or seaman having a family, for every person, including women and children, of which his family shall consist.

[4] That eighty acres on like conditions shall be granted to every

<sup>12</sup> *Acts, Privy Coun., Col., 1720-45*, pp. 293-294.

officer under the rank of ensign in the land service and that of lieutenant in the sea service, and to such as have families fifteen acres over and above the said eighty acres for every person of which their families shall consist.

[5] That two hundred acres on like conditions shall be granted to every ensign, three hundred to every lieutenant, four hundred to every captain, six hundred to every officer above the rank of captain in the land service, as also the like quantity of four hundred acres and on the like conditions to every lieutenant in the sea service and six hundred to every captain, and to such of the above-mentioned officers as have families a further grant of thirty acres shall be made over and above their respective quotas for every person of which their families shall consist.

[6] That fifty acres of land will likewise be granted to carpenters, shipwrights, smiths, masons, joiners, brickmakers, bricklayers, and all other artificers necessary in building or husbandry, not being private soldiers or seamen, and also that two hundred acres of land shall be granted to all surgeons, whether they have been in our service or not. You are therefore to cause the lands to be parcelled out to the said settlers by proper persons to be by you appointed for that purpose as soon as possible after their arrival at each settlement, according to the said proposals and agreeable to such lists or certificates as shall be delivered to you signed by a proper officer here, specifying the name and quality of each person we shall think proper to send over thither, and also the number of his family.

A—Omit **LATELY** (par. 1) and substitute: “who since the expiration of the late war have been”. Omit from to (par. 6) to the end and substitute: “by proper persons to be appointed for that purpose according to the said proposals”.

*Nova Scotia: 1749–52; 1752–56 A.*

#### 886. LANDS FOR DISBANDED TROOPS IN NOVA SCOTIA

And whereas we have thought fit to direct that the regiments now in garrison at Louisbourg in the island of Cape Breton should forthwith repair to our said province of Nova Scotia for the better security thereof, as also to give orders for the reduction of the two regiments whereof William Shirley, Esq., and Sir William Pepperell, Bart., are colonels;<sup>18</sup> it is therefore our will and pleasure THAT the

<sup>18</sup> The 50th and 51st Regiments of Foot, disbanded in 1748.

same quantity of land as is aforementioned,<sup>14</sup> as also PROVISIONS, stores, and materials of every kind, be in like manner on the like conditions<sup>15</sup> allotted to such of the officers and private men of the said TWO REGIMENTS in proportion to their rank as shall be willing to settle with or without their families in our said province, and that they be settled in such township or townships as you or the commander in chief for the time being shall think proper; PROVIDED always that all officers or private men belonging to the said regiments as shall not apply to you for such encouragement within such time as you shall think proper to appoint at your arrival in our said province shall not be entitled to any allowance of provision for their subsistence.

A—Omit from beginning through THAT and substitute: “And in case his Majesty shall hereafter think proper to direct any part of the troops stationed within the said province to be discharged, it is his Majesty’s will and pleasure that in such case”. Omit PROVISIONS. Omit TWO REGIMENTS and substitute: “troops”. Omit from PROVIDED to the end.

Nova Scotia: 1749–52; 1752–56 A.

### 887. LANDS FOR HIGHLAND EMIGRANTS<sup>16</sup>

Whereas an humble application hath been made to us by Allan MacLean, Esquire, late major to our 114th Regiment and lieutenant colonel in our army, setting forth that a considerable number of our subjects who have at different times emigrated from the northwest parts of North Britain and have transported themselves with their families to [New York, North Carolina] have expressed a desire to take up lands within our said province to be held of us, our heirs, and successors in fee simple; and whereas it may be of public advantage to grant lands in manner aforesaid to such of the emigrants now residing within our said province as may be desirous of settling together upon some convenient spot within the same; it is therefore our will and pleasure that upon application to you by the said Allan MacLean, and upon his producing an Association of the

<sup>14</sup> See above, § 885.

<sup>15</sup> See below, §§ 892, 893, 895, 896.

<sup>16</sup> This instruction is marked “Secret”, and was accompanied by a “secret” letter from Lord Dartmouth to the governor, April 5, 1775, emphasizing the importance as well as the secrecy of MacLean’s mission. C. O. 5: 76, pp. 138–135.

said emigrants to the effect of the form hereunto annexed<sup>17</sup> subscribed by the heads of the several families of which such emigrants shall consist, you do cause a proper spot to be located and surveyed in one contiguous tract within our said province of [New York, North Carolina] sufficient in quantity for the accommodation of such immigrants, allowing one hundred acres to each head of a family and fifty acres for every other person of which the said family shall consist. And it is our further will and pleasure that when the said lands shall have been so located as aforesaid, you do grant the same by letters patent under the seal of our said province unto the said Allan MacLean in trust and upon the conditions to make allotments thereof in fee simple to the heads of families whose names, together with the number of persons in each family, shall have been delivered in by him as aforesaid, accompanied with the said Association. And it is our further will and pleasure that it be expressed in the said letters patent that the lands so to be granted shall be exempt from the payment of quit-rents for twenty years from the date thereof, with a proviso, however, that all such parts of the said tract as shall not be settled in manner aforesaid within two years from the date of the grant shall revert to us and be disposed of in such manner as we shall think fit. And it is our further will and pleasure that neither yourself nor any other of our officers within our said province to whose duty it may appertain to carry these our orders into execution do take any fee or reward for the same, and that the expense of surveying and locating any tract of

<sup>17</sup> The "Form of Association" annexed is as follows: "We, whose names are hereunto subscribed, do hereby severally and respectively promise and engage that we will demean ourselves as good and loyal subjects to his Majesty, King George the Third, and peaceably submit to the laws enacted by the parliament of Great Britain, and that we will at the hazard of our lives and fortunes oppose all illegal combinations or insurrections whatever, and give our utmost aid in suppressing all such proceedings and practices as are contrary to the laws of the land and the authority of the king.

"And if his Majesty, or those acting under his royal authority shall judge it necessary or expedient for us to be assembled and embodied for the purpose of maintaining the peace, order, and good government of the respective provinces of North America wherein we reside, we the subscribers do hereby bind and oblige ourselves forthwith to assemble and embody accordingly, and to serve on the same terms and under the same regular discipline and command as is his Majesty's other military service and establishments.

"And moreover, if his Majesty or those acting under his royal authority shall deem it requisite for such of us as are fit for actual service to be embodied and to act in conjunction with his Majesty's regular forces, we do hereby bind and oblige ourselves forthwith to assemble and be embodied accordingly, to obey all the orders of our proper officers and commanders respectively, and to continue to serve in our respective stations during his Majesty's royal will and pleasure."

land in the manner and for the purposes abovementioned be defrayed out of our revenue of quit-rents and charged to the account thereof. And we do hereby declare it to be our further will and pleasure that in case the whole or any part of the said colonists, fit to bear arms, shall be hereafter embodied and employed in our service in America, either as commission or non-commission officers or private men, they shall respectively receive further grants of land from us within our said province free of all charges and exempt from the payment of quit-rent for twenty years in the same proportion to their respective ranks as is directed and prescribed by our royal proclamation of the 7th of October, 1763,<sup>18</sup> in regard to such officers and soldiers as were employed in our service during the late war.

New York: April 6, 1775.

North Carolina: April 6, 1775.

### 888. SETTLEMENT OF PALATINES IN NEW YORK

Whereas our Commissioners of Trade and Plantations have by their representation of the 5th of December last laid before us a scheme for the settling of about three thousand Palatines at New York and for employing them in the production of naval stores in that province; and whereas being willing to promote so good and advantageous an undertaking, we have thought fit to approve the said scheme as set forth in the said representation, a copy whereof is hereunto annexed;<sup>19</sup> it is our will and pleasure that you take care upon your arrival at New York that the said scheme be duly put in execution and particularly such parts thereof wherein you as our governor and commander in chief of that province are more immediately concerned.

New York: Jan. 26, 1710.

### 889. ENCOURAGE NEWFOUNDLANDERS TO MOVE TO NOVA SCOTIA

And whereas the settlements which have been made by his Majesty's subjects in Newfoundland have by experience been found

<sup>18</sup> See C. S. Brigham, *British Royal Proclamations Relating to America, 1603-1783*, pp. 212-218.

<sup>19</sup> See N. Y. Col. Docs., V, 117-120.

prejudicial on many accounts to the trade of Great Britain, and it being apparently more for his Majesty's service and the interest of his dominions to establish a British colony in Nova Scotia sufficient to support itself against any attempts of other European nations and of the neighboring Indians; you shall use all proper methods for inducing the present inhabitants of Newfoundland to remove to Nova Scotia, as well for the better settlement and strengthening of that colony as for improving the fishery in those parts. And in order thereunto you are hereby empowered to grant one hundred acres of land to each family that shall transplant themselves from Newfoundland and settle under your government abovementioned, under the abovementioned instructions of improvement,<sup>20</sup> the said land to be held at a pepper-corn rent for the first twenty years from his Majesty, his heirs, and successors, but to be afterwards subject to the same quit-rents as shall be payable according to the preceding instructions by all other persons to whom in pursuance of the power given you by your commission you shall make grants of any parcels of land in Nova Scotia.

Nova Scotia: 1719-29.

#### 890. IRISH AND PALATINE SETTLERS IN NOVA SCOTIA

Whereas by our commission to you under our great seal of Great Britain for the government of that our province of Nova Scotia we were pleased to give and grant unto you full power and authority, by and with the advice and consent of our council there, to settle and agree with the inhabitants of our said province of Nova Scotia for such lands, tenements, and hereditaments as then were or thereafter should be in our power to dispose of, and them to grant to any person or persons upon such terms and under such moderate quit-rents, services, and acknowledgments to be thereupon reserved unto us as you, by and with the advice aforesaid, should think fit; but as it was our pleasure that certain tracts of land which should be found upon a survey to be most proper for producing masts and other timber for the use of our royal navy lying contiguous to the seacoast and navigable rivers should be reserved for our service, we did by our instructions direct and require you "not to grant any lands until such tracts should have been marked out and set apart for our use, not amounting to less than two hundred thousand acres

<sup>20</sup> See above, § 824.

in the whole, in which you were required strictly to forbid all the inhabitants of Nova Scotia or others that might come thither to cut trees of any dimensions whatsoever upon pain of our highest displeasure and of the utmost penalties the laws could inflict";<sup>21</sup> our will and pleasure is that you furnish David Dunbar, Esquire, Surveyor General of our Woods in America and of our Lands in Nova Scotia, out of our garrisons under your command with such a number of soldiers as will be necessary to protect him whilst upon this service and until he shall have set out one other hundred thousand acres of land for our service between the Rivers Penobscot and St. Croix according to our royal instructions to him in this behalf; and whereas application has since been made to us in behalf of several Protestant families from our kingdom of Ireland now or lately settled about the province of Maine, who are desirous to remove to our said province of Nova Scotia, and likewise in behalf of several Protestant families from the Palatinate of Germany, who are desirous to become subjects and inhabitants of our said province of Nova Scotia; we have thought it for our royal service and accordingly have given instructions to the said David Dunbar to lay out lands for the said Irish families and for any other of our subjects that shall be disposed to settle on or between the Rivers of St. Croix and Penobscot (copies of which instructions are herewith sent you for your information and government), and you are hereby directed not to interfere in any sort with the said David Dunbar in the execution of our said instructions to him, but on the contrary to give him all aid and assistance therein when required so to do; and to pass proper grants under the seal of our province of such lands as our said surveyor shall set apart as aforesaid, to the persons to whom he shall allot the same, and to no other person or persons whatsoever. And our further will and pleasure is and we do hereby require you by and with the advice and consent of our council of Nova Scotia, so soon as our Surveyor General of our Woods on the Continent of America shall have marked out and set apart for our use the said two hundred thousand acres of land, to grant under the seal of our said province to the said Palatines such proportions of land and under such conditions and limitations as we have thought fit hereinafter to direct and appoint; that is to say:

For every forty families of the said Palatines who are willing to become planters in Nova Scotia, you shall set apart and mark out a

<sup>21</sup> See above, § 857.

tract of land to consist of one hundred thousand acres or twelve miles square, which shall be erected into a particular parish, district, and township, and called by such name as you shall think convenient.

Within each of these districts you shall likewise set apart a particular place for the building of a town, to consist of one hundred dwelling houses with all necessary conveniences belonging to them, and to each of these houses shall be annexed a town-lot of forty acres as contiguous as may be to the said town.

To every family settling there you shall grant one of the said town-lots and likewise to every one of the said families you shall grant one hundred acres or more of land without the said town in proportion to the number and ability of each family.

And as to the lands remaining within the said districts, it is our will and pleasure that they be granted either to such new inhabitants as shall be disposed to settle there or to the ancient inhabitants as their circumstances and industry shall render them capable of cultivating larger tracts than were originally granted to them, provided that no one person do possess a larger tract of land than one thousand acres in his own name or in any others for his use.

And you are further to take care that a competent quantity of land be allotted in each district for maintenance of a minister, a schoolmaster, and their successors in perpetuity.

You shall likewise grant to the minister and to the schoolmaster, each of them, one town-lot in perpetuity for the use of the said minister and schoolmaster and of their successors respectively.

And for the encouragement of the first minister and schoolmaster, over and above the said town-lots and lands to be appropriated to the support of them and their successors, you shall make grants both of lands and town-lots in like manner as to the other inhabitants.

And our further will and pleasure is that you take care to have inserted in each of the several grants of land which you shall make either to the eastward or to the westward of St. Croix, a clause or clauses whereby there shall be reserved to us, our heirs, and successors, one penny sterling per acre per annum quit-rent after the first three years, and that you do likewise reserve to us, our heirs, and successors, a power to levy upon the said lands a further sum, not exceeding one penny sterling per acre annually over and above

the said quit-rent for and towards the necessary charge and support of our government there as occasion may require.

And as we do hold it for our service and for the security of such of our subjects as shall be disposed to become planters in our said province under your government, that they should be settled in townships or districts, that they may the better be able to defend and assist each other as well against savage Indians as against any other enemy that may at any time attack them, you are hereby directed to make all settlements in the like manner, and under the same conditions as are herein above directed.

In all other matters you are hereby directed to govern yourself by our former instructions, wherein they are not expressly varied or altered by these presents, more especially with regard to the 30th article of our said former instructions for the encouragement of the fishery,<sup>22</sup> whereby you were directed to use your best endeavors that the fishery on the coast of Nova Scotia should be encouraged and protected; and in order thereunto not to allow any settlements to be made on the coast but what should be at two hundred yards distance from the sea or harbor, that there might be sufficient room left for beaches, flakes, stages, cook-rooms, and other necessary conveniences between the said settlements and the sea for any of our subjects that should come to catch and cure fish there, who are not to be impeded, molested, or disturbed in curing their fish upon pretense of grants or settlements upon the coast, nor shall any of the planters and inhabitants demand any sum or sums of money or other acknowledgment from the fishermen for the liberty of curing upon the coast, unless they provide stages and cook-rooms with a shore man to each stage and the usual necessaries for such fishing-ships as is done at Marblehead in New England; and in such case they shall ask no more than twelve pence New England money for every quintal.

Nova Scotia: April 27, 1730.

#### 891. PREPARATIONS FOR NOVA SCOTIA SETTLERS, 1749

And whereas for the better peopling our said province with British subjects and improving and extending the valuable fishery

<sup>22</sup> See below, § 957.

thereof, we have thought fit to give certain encouragement to such of the reduced officers and private men lately discharged our land and sea forces, and others our subjects as are desirous of accepting grants of lands and settling with or without their families in our said province, as also to give directions for subsisting the said persons during their passage to our said province, and for the space of twelve months after their arrival there, and likewise that they should be furnished with arms and ammunition, with a proper quantity of materials and utensils for husbandry for clearing and cultivating their lands, erecting habitations, carrying on the fishery, and such other purposes as shall be necessary for their support, together with forts for their shelter and protection, until convenient houses can be erected; and whereas it is thought necessary that the ships appointed by us for transporting the said settlers should depart from hence as early as possible and that they should repair with all possible dispatch to the harbor of Chebucto within our said province; it is therefore our will and pleasure and you are hereby directed and required immediately upon your arrival in our said province to concert such measures by and with the advice and consent of our council as shall be judged most proper for the reception and accommodation of the said settlers upon their arrival.

And whereas it is necessary that the said settlers should be protected from any attempts which may be made at their first landing by the Indians inhabiting within our said province or others; it is therefore our further will and pleasure that you cause such a necessary part of our forces already within our said province or that may hereafter be sent thither to form a camp at the said harbor of Chebucto or elsewhere as you shall judge most proper, and that they be employed in erecting block houses and such other public works as you or the commander in chief for the time being shall judge necessary for the security and accommodation of the said settlement, taking care that they do not commit any waste or otherwise prejudice the lands to be settled.

You are also forthwith to cause proper storehouses to be erected in such convenient places as you shall think proper for the reception of such provisions as the said settlers shall carry with them or may be sent from hence from time to time for their subsistence, as also for the reception of the arms, ammunition, and materials for husbandry, etc.

And whereas for the more effectual cultivation of our said prov-

ince and extending the trade thereof, it has been thought proper that settlements should be made in different parts thereof, you are therefore in like manner to cause proper storehouses to be likewise erected at the following places, viz: Minas, Bay Verte, or Chegneecto, Whitehead, and La Have, or such other as you shall think most proper, and that such a part of our forces as you shall judge necessary be posted at each of the said settlements for this purpose and such other as our service may require.

Nova Scotia: 1749-52.

### 892. RECEPTION AND SUPPLY OF NOVA SCOTIA SETTLERS, 1749

And in case it should so happen that you should be in any other part of our said province at the time of the arrival of the said settlers in our said harbor of Chebucto, the commanding officer there for the time being is hereby authorized and empowered to concur with the commander of such ship or ships of war as we shall judge proper to be sent along with the said settlers the best means for landing the said settlers or such part thereof as shall be thought proper, giving you immediate notice thereof that you may forthwith repair to the said harbor.

And it is our further will and pleasure that such arms, ammunition, stores, tents, and materials as we shall think proper to send to our said province for the use of the settlers be landed with the settlers, and that those together with such other stores as shall be furnished from any other place or places be laid up in such storehouse as you shall have erected for that purpose under the care of proper persons [to] be appointed by you; the said settlers to be immediately furnished with a proper number of tents for their accommodation until houses can be built, as also arms and ammunition in proportion to their number, and as far as shall be judged necessary for their defense, taking care that none of the said arms, ammunition, stores, tents, and materials be delivered but by order from you or the commanding officer for the time being for that purpose, and that the persons whom you shall appoint to be storekeepers do enter in a book to be kept for that purpose an exact account of the quality and quantity of such stores so delivered with the times of their delivery and to whom, and that they do deliver

a copy of such account to you when and as often as you shall require the same.

And you are also to see that the stores which we shall think proper to order to be sent from Louisbourg or any other place be entrusted to the care of proper persons to be by you appointed, who are to give in, when and as often as you shall require the same, exact account of the issues and remains thereof.

And whereas a contract hath been entered into by our Commissioners of our Treasury with Chauncey Townshend [*sic*] of London, merchant, for supplying such persons as we shall think proper to send to settle in our said province with provisions for twelve months after the rate of  $4\frac{1}{2}d.$  per day per person, and whereas by the said contract, a copy whereof you will herewith receive, he is obliged to send six months of the said provision from Great Britain or Ireland on or before the first day of May next, and also in like manner a further quantity of three months on or before the first of August next, to be delivered to you or the commander in chief of our said province for the time being at our said harbor of Chebucto, or such other place as you or the said commander in chief for the time being shall judge proper; you are therefore to cause the said provisions or a necessary part thereof to be landed at our said harbor of Chebucto or elsewhere within our said province as you shall think proper, giving receipts to the said contractor or his agent for the same, and laid up in storehouses to be by you erected for that purpose, taking care that you visit and search the said provisions, or cause the same to be visited and searched by proper persons to be by you appointed for that purpose, and if any part thereof shall upon such search be found to be not good, or any ways damaged, you are to return the same back to the said contractor or to his agent upon his account, who is in such case obliged to provide an equal quantity of good, or in default thereof, you are to supply yourself with the same from any other person or persons and draw upon the said contractor for the cost thereof.

And it is our further will and pleasure and you are hereby authorized and empowered to deliver out the said provisions or cause the same to be delivered out to the said settlers at such times and in such quantities as you or the commander in chief for the time being shall judge proper, taking care that the quantity so delivered to one person do not in any one month exceed the proportion mentioned in the said contract, unless you or our said commander

in chief for the time being should think it necessary to extend the same, in which case you or he is hereby authorized and empowered to draw upon the said contractor or his agent for such further quantities as shall be thought necessary, giving notice thereof to us by one of our principal secretaries of state and to our Commissioners of our Treasury and to our Commissioners for Trade and Plantations; provided also that you take especial care that no part of the said provisions be delivered out without an express order from you or the commander in chief for the time being for that purpose under your or his hand and seal, and that you do oblige such person or persons to whom the care of the said provisions shall be entrusted to enter in a book to be kept for that purpose, an exact account of the quantity and quality of such provisions as shall be lodged in the said storehouses, as also of such as shall from time to time be delivered out by your order, specifying the time of their delivery and to whom, and that they do give a copy of such account to you or the commander in chief for the time being when and so often as the same shall be required.

And it is our further will and pleasure that if you or the commander in chief of our said province for the time being shall at any time hereafter within the space of twelve months find it necessary to supply the said settlers with live stock for their support, you or he is in such case hereby authorized and empowered to deliver the same in lieu of such quantity of beef and pork as they would otherwise be supplied with by the said contractor and to draw bills upon him for the cost thereof, transmitting to us by one of our principal secretaries of state and to our Commissioners of our Treasury and to our Commissioners for Trade and Plantations an account thereof, specifying the quantity and quality of the said live stock and in what manner and to whom delivered.

And it is our further will and pleasure that you do cause certificates to be made out monthly or oftener, as occasion shall require, of the number of persons which have been supplied with provisions out of the said storehouses within each month, which said certificates, after they have been signed by you or by the commander in chief for the time being, are to be delivered to the said contractor or his agent and also transmitted to us by one of our principal secretaries of state, to our Commissioners of our Treasury, and to our Commissioners for Trade and Plantations, and duplicates thereof by the first conveyance.

And whereas it may not be found practicable to erect proper storehouses for the reception of the aforementioned provisions, arms, ammunition, and other stores before the arrival of the said settlers, you are in such case to cause them to remain on board the respective ships and to appoint proper persons to prevent the embezzlement thereof and to deliver out the same in like manner as aforementioned until proper storehouses can be erected.

And whereas it has been thought proper that the ships appointed by us for transporting the said settlers should remain some time upon the coasts of Nova Scotia for the shelter and protection of the said settlers, in case of bad weather or other accidents; you are therefore hereby authorized and empowered to cause the said ships to remain upon the said coasts of Nova Scotia for as long a time as you shall judge necessary, as also to employ them during their stay there for transporting the said settlers with their arms, ammunition, provisions, and other stores as occasion shall require from one settlement to another, or for such other purposes as our service may require, taking care that you do not detain any of the said ships for a longer time than our service may actually require; and when any of the said ships shall be discharged by you, you are to transmit to us by one of our principal secretaries of state and to our Commissioners of our Treasury, and to our Commissioners for Trade and Plantations, an account thereof specifying the actual time of the continuance of such ship or ships in our service as also the time of his or their discharge.

Nova Scotia: 1749-52; (§ 895).

### 893. DISTRIBUTION OF NOVA SCOTIA SETTLERS, 1749

And whereas it is proposed to us that the persons to be sent from hence to the said province of Nova Scotia should be settled at the following places and in the following proportions, viz: at Chebucto, 1200; at Minas, 500; La Have, 300; Whitehead, 500; Bay Verte, 500; it is therefore our will and pleasure and you are hereby directed and required as soon as possible after the arrival of the said settlers at our harbor of Chebucto to cause so many families as you shall judge proper, not exceeding 1200 persons, to seat themselves in equal proportions within the townships to be by you laid out at the said

harbor as aforesaid,<sup>23</sup> taking care at the same time that they be furnished with tools and materials in proportion to their families for erecting habitations within such spot as you shall have marked out for building towns within the said townships;<sup>24</sup> which being done, you are at such time as you shall think proper to cause the remainder of the said settlers to be transported either by land or sea to the abovementioned settlements or any others which upon due inquiry into the nature and situation of the country you shall find convenient to be settled, in such proportions as are above-mentioned, or such others as from circumstances which may occur you shall judge expedient, taking care that you send a sufficient armed force along with them for their protection, and also that they be furnished with arms, ammunition, tents, stores, and materials of every assortment in proportion to the numbers to be settled at each place, as also provisions for such time as you shall judge proper according to the distance of each settlement from the harbor of Chebucto, giving strict orders to the commanding officers who shall be sent with the said settlers or shall be resident at each settlement to cause the said provisions, arms, ammunition, tents, stores, and materials to be lodged in such storehouses as you shall have caused to be erected at each of the said settlements and entrusted to the care of such person as shall be appointed by you for that purpose, who is to deliver out the same in like manner and under the like restrictions as are hereinbefore mentioned.

[Here follows § 896, par. 2.]

And in order to prevent any fraudulent or unjustifiable advantages which may be made of the necessities of the said settlers by persons taking over large quantities of goods to dispose of them, it is our further will and pleasure that you use your best endeavors to set a reasonable price upon all commodities which may be bought or sold within our said province.

And it is our further will and pleasure that it be determined by lot or otherwise as you shall think proper what families shall be fixed at each settlement, in order to prevent any discontent which may arise on that account.

And it is our further will and pleasure that as soon as the said persons shall arrive at their respective destinations they be furnished

<sup>23</sup> See above, § 769.

<sup>24</sup> See above, § 766.

with tents, arms, ammunition, as also materials for building and cultivation in such quantities and proportions as the commanding officer at each settlement shall judge proper, in proportion to their families.

Nova Scotia: 1749-52.

#### 894. EXPORT NO PROVISIONS TO FRENCH SETTLEMENTS

And as the persons whom we shall think proper to settle in our said province may at their first settling have occasion for LARGE quantities of corn and cattle for their immediate use, as well as for stocking their lands, you are therefore to cause a proclamation to be published forbidding all persons under a severe penalty to export out of our said province to any French settlement whatever any corn, cattle, or provision of any kind, without leave first obtained from you or the commander in chief for the time being.

A—Omit from beginning through LARGE and substitute: "And in order to prevent a scarcity of provisions in the said province, and that our subjects may be always supplied with proper".

Nova Scotia: 1749-52; 1752-64 A.

#### 895. RECEPTION AND SUPPLY OF NOVA SCOTIA SETTLERS, 1752

And whereas for the better peopling and improving the said province of Nova Scotia, his Majesty has thought proper to give certain encouragements to such foreign Protestants as are desirous of settling therein, and to direct that they should be subsisted for the space of twelve months after their arrival there and also furnished with arms and ammunition and with a proper quantity of materials and utensils for husbandry, clearing and cultivating their lands, erecting habitations, and for such other purposes as should be necessary for their support; and whereas the Commissioners of his Majesty's Treasury have from time to time entered into contracts with Chauncey Townsend [*sic*] of London, merchant, for supplying the said settlers with provisions; you are therefore immediately upon your arrival in the said province to cause an exact and particular account to be taken of the quantity and quality of the pro-

visions, stores, arms, ammunition, and materials remaining in the several storehouses within the said province, and to transmit the said account, duly attested by the commissary of stores or other proper officer or officers, to the Commissioners of his Majesty's Treasury and to his Majesty's Commissioners for Trade and Plantations by the first opportunity.

You are also to cause a very exact account to be taken of the number of persons who at the time of your arrival in the said province shall be entitled to or receive an allowance of provisions out of the said stores, distinguishing the name and quality of, and the actual day whereon, each person began to receive the said allowance; and if it shall appear to you that any of the said persons have received an allowance of provisions for a longer time than they are by his Majesty's bounty entitled to it, except in cases of persons who have been continued upon the victualling lists as real objects of necessity, you shall forthwith cause the said allowance to be discontinued; and you are upon no account to suffer any person except in such cases of necessity to receive such allowance of provisions for a longer time than twelve months from the actual day whereon such allowance commenced.

And whereas the foreign Protestants who have or may become settlers in the said province upon the aforementioned encouragements are the only persons entitled to receive of provisions from the public storehouses; you are to take especial care that no other persons than such as are in real necessity as aforesaid do receive any allowance of provisions out of the said stores.

And whereas by the terms of the contracts entered into by the Commissioners of his Majesty's Treasury with the said Chauncey Townsend [*sic*] the quantities and quality of provisions to be delivered to each settler respectively are as follows, that is to say: for each person victualled for every seven days, five pound weight of bread or flour, three pound weight of beef, two pound weight of pork, one quarter of a pound weight of butter, one pint of peas, one quarter of a pint of oatmeal, and one quarter of a pint of vinegar, half a pint of rum, and half a pint of molasses; you are to take care that the quantity of provisions delivered to one person do not in any one month exceed the said proportions; provided also that you take especial care that no part of the said provisions be delivered out without an express order from you or the commander in chief for the time being for that purpose under your or his hand and seal,

and that you do oblige the commissary of the said stores, to whom the care of the said provisions shall be intrusted, to enter in a book to be kept for that purpose, an exact account of the quantity and quality of such provisions as are lodged in the storehouses, as also of such as shall from time to time be delivered out by your order, specifying the time of their delivery, and to whom; and that the said commissary do give a copy of such account duly attested unto you or the commander in chief for the time being when and so often as the same shall be required.

And it is his Majesty's further will and pleasure that you do cause certificates to be made out monthly or oftener as occasion shall require of the number of persons which have been supplied with provisions out of the said storehouses within each month, which said certificates after they have been signed by you or by the commander in chief for the time being are to be transmitted to the Commissioners of His Majesty's Treasury and to his Majesty's Commissioners for Trade and Plantations, and duplicates thereof by the first conveyance.

And whereas the supplying the said settlers with provisions upon contract has been found to have been attended with inconvenience and that it would be more for the ease and satisfaction of the said settlers to have an allowance of money in lieu of the said provisions; it is therefore his Majesty's will and pleasure that so soon as the provisions which shall be remaining in his Majesty's stores at your arrival in the said province shall be exhausted, the persons entitled to receive such an allowance or a continuance of such allowance of provisions shall for the future in lieu thereof have and receive an allowance in money after and at the rate of three pence per day per person to be paid them weekly, or oftener as you or the commander in chief for the time being shall in your discretion think most proper.

And it is his Majesty's further will and pleasure that you or the commander in chief of the said province for the time being do pay or cause to be paid out of such moneys as shall be issued out of his Majesty's Exchequer for that purpose the said allowance of three pence per day per person to such settlers as shall be entitled to receive an allowance of provisions, the said payments to cease and determine at the expiration of one year to be reckoned from the actual day whereon such person first began to receive the said allowance, or from the actual day whereon such as received provisions before such allowance took place were first entered upon the vict-

ualling books; and you are upon no pretense whatsoever to suffer any settlers except the said foreign Protestants to receive the said allowance or to continue the payment thereof to any settler whatsoever for longer time than one year.

And in order to prevent abuses and irregularities in the payment of the said allowance, it is his Majesty's will and pleasure that you do cause lists or certificates to be made out monthly or oftener as you shall judge most proper of the numbers of persons entitled to such allowance, specifying the names and qualities of such persons with the actual day on which each person began to receive the same; which said lists or certificates together with the receipts of the several persons receiving such allowance shall be signed and attested by you or the commander in chief for the time being, and when and as often as opportunity shall offer, transmitted to the Commissioners of his Majesty's Treasury and to the Commissioners for Trade and Plantations.

And whereas his Majesty's Commissioners for Trade and Plantations have entered into engagements with Mr. John Dick of Rotterdam, merchant, for transporting one thousand foreign Protestants to his Majesty's said province of Nova Scotia, you are therefore immediately upon your arrival to concert such measures by and with the advice and consent of his Majesty's council as shall be judged most proper for the reception and accommodation of the said foreign Protestants upon their arrival.

And it is his Majesty's further will and pleasure that immediately upon the arrival of the said foreign Protestants and before they are landed you do require the master or masters of the ships or vessels having the said foreign Protestants on board to deliver you an exact list duly attested of the names of the said foreign Protestants; and when you shall have received the said list, you shall then cause the said foreign Protestants to be landed and brought before you in council; which being done you are to cause them to make and subscribe such a declaration as you and the said council shall judge proper of their being willing to submit to his Majesty's government and the laws of this kingdom, provided also that you take especial care that the said declaration be conformable to the laws in such cases made and provided.

And it is his Majesty's further will and pleasure that immediately upon the arrival of any ship or vessel having such foreign Protestants or other persons on board and before the said persons are

landed, you do cause a proper person to be appointed by you to go on board such ship or vessel to make a strict inquiry into the health and condition of such persons; and if it shall be found that there is any sickness on board of a dangerous or infectious nature, you are to cause the said ship or vessel immediately to depart to such place or port as you shall judge most proper and most likely to prevent the spreading of the distemper and at a convenient distance, and there cause the said persons to be landed, if it should be judged proper that they be landed at all, and placed in a lazaretto or other proper building to be erected for that purpose taking care that they be visited and attended and supplied with such necessaries as their condition may require.

You are also to cause a strict inquiry to be made into the conduct and behavior of the captains or masters of the said ships and vessels to the foreign Protestants during their passage, and if you shall find that they have [ill] treated or abused them, either by depriving them of their proper allowance of provisions or otherwise, you are to transmit an account thereof to his Majesty's Commissioners for Trade and Plantations to the end that proper measures may be taken for punishing the said captains or masters upon their return.

And whereas such of the said foreign Protestants as are unable to pay the charge of their passage to the said province are obliged by the terms of their engagements with the said John Dick to work out the said charge in the public works at and after the rate of one shilling per day; you are therefore to cause an exact account to be taken of the number of foreign Protestants, as well those as are now in the province as those who may hereafter arrive, who by the terms of their engagement are obliged to labor in the public works, specifying the number of days the said foreign Protestants are to labor; and you are to cause the said account to be entered in a book to be kept by a proper officer appointed for that purpose; and when and as often as you shall find it necessary to carry on any public works whatsoever, you are to employ the said foreign Protestants therein.

And it is his Majesty's further will and pleasure that the said foreign Protestants shall be supplied out of his Majesty's storehouses in the said province with such a quantity of arms, ammunition, tools, and materials as shall be judged necessary for their defense and for erecting habitations; provided that you take especial care that no part of the said arms, ammunitions, tools, and materials be

delivered out of the said storehouses without an express order from you or the commander in chief of the said province for the time being under your or his hand and seal, and that you do oblige the commissary to whom the care of the said stores shall be intrusted to enter in a book to be kept for that purpose an exact account of the quantity and quality of such stores as shall from time to time be delivered out by your order, specifying the actual time of their delivery and to whom the same were delivered.

Nova Scotia: (§ 892); 1752-56.

#### 896. PROVISIONING OF NOVA SCOTIA SETTLERS

[1] And in case it shall so happen that such of the said settlers as shall be entitled to receive the aforesaid allowance of three pence per day from the public, should find it impracticable, on account of their remote situations, to furnish themselves with provisions for their support, you are in such case to provide such a quantity of provisions as you shall judge sufficient and cause the same to be transported to the said townships and lodged in a proper storehouse under the care of a storekeeper to be appointed by you for that purpose, who is to deliver out the same to such of the said settlers as are entitled thereto in lieu of the three pence per day under the like regulations and restrictions as are hereinbefore mentioned,<sup>25</sup> and you are to use your endeavor that the quantity of provisions delivered to each person in one day does not exceed the value of the said three pence.

[2] And it is his Majesty's further will and pleasure that when and as often as it shall be found necessary to send further supplies of said provisions to any of the said settlements, you do oblige the master of the ship or vessel or other person to whom you shall intrust the same to give security for the delivery thereof, and also direct the commanding or other proper officer of such settlement for the time being to transmit to you an account of what quantity of said provisions he shall from time to time receive, as also monthly accounts of the number of persons supplied therewith, distinguishing the quantities and when and to whom delivered.

[3] And it is his Majesty's further will and pleasure that as soon as the said persons shall arrive at their respective destinations, they

<sup>25</sup> See above, § 895.

be furnished with tents, arms, and ammunition, as also materials for building and cultivation in such quantities and proportions as the commanding or other proper officer at each settlement shall judge necessary, unless they shall have already received such tools, materials, etc., in some other part of the province.

A—Omit paragraphs 1 and 3.

Nova Scotia: 1749-52 A; 1752-56.

### 897. McNUTT'S SCOTS-IRISH SETTLERS FOR NOVA SCOTIA (I)<sup>26</sup>

Whereas it hath been humbly represented to us that Mr. Alexander McNutt did in consequence of proposals by him made to our Commissioners for Trade and Plantations engage and carry over in the last year about three hundred persons from the northern parts of our kingdom of Ireland to our province of Nova Scotia to become settlers on certain tracts of land reserved and allotted to him by the late governor of our said province for the establishment of seven townships, and that the said McNutt has since returned to Ireland, where he has engaged shipping to carry over seven or eight thousand persons from that kingdom to our said province; and whereas it appears to us that however desirable an object the settling of Nova Scotia may be, yet the migration from Ireland of such great numbers of our subjects must be attended with dangerous consequences to our said kingdom; it is therefore our will and pleasure that you do not grant any lands to or permit any of our subjects from our kingdom of Ireland to become settlers in our province of Nova Scotia except such as have been resident in that province or in some other our colonies in America for the space of five years.

Nova Scotia: May 19, 1762.

### 898. McNUTT'S SCOTS-IRISH SETTLERS FOR NOVA SCOTIA (II)<sup>27</sup>

Whereas Alexander McNutt, Esquire, did on the 27th February, 1761, engage and agree with our Commissioners for Trade and

<sup>26</sup> See *Acts, Privy Coun., Col., Unbound Paps.*, §§ 520, 537; *ibid.*, 1745-66, pp. 532-533.

<sup>27</sup> See *ibid., Unbound Paps.*, § 546; *ibid.*, 1745-66, pp. 533-534.

Plantations to introduce settlers from the northern parts of our kingdom of Ireland into our province of Nova Scotia, upon the following terms and conditions, viz:

"That each and every family so to be introduced by him should upon arrival in the said province receive a grant under the province seal of a lot or share of lands of the same quality and in the same proportion as those granted to families already settled in the new townships of Horton, Cornwallis, and Falmouth, in the said province, under the governor's proclamation of the 11th day of January, 1759; and that Mr. McNutt should also be entitled to and receive a grant for his own benefit of one hundred acres of land for every five hundred acres so to be granted, as a reward for his merit in this service.

"That the lands so to be granted be laid out in townships consisting of one hundred thousand acres of land to each township, in such parts of the province as Mr. McNutt shall choose, where the lands shall not have been under actual settlement or surveyed and allotted to other persons at the time of arrival of the settlers to be introduced by Mr. McNutt.

"That the grantees of the lands shall be bound by the terms of their patents to the following and no other conditions of quit-rent and cultivation, viz:

[Here follow *verbatim* the terms and stipulations given above in § 760, paragraphs 5-11 (C).]

"That the clause in the grants already made to settlers in the new township of Horton, Cornwallis, and Falmouth, by which the claims of any persons under former grants are reserved, may not be inserted in the grants, it having occasioned doubts and suspicions in the mind of the settlers, which have operated very much to discourage the settlements".

It is therefore our will and pleasure and you are hereby authorized and required to make grants of any such lands within our said province of Nova Scotia as are not already allotted to any other persons in the proportions and on the several terms and conditions above-mentioned to the said Alexander McNutt and to all and every such settlers as he shall have brought into the said province from our kingdom of Ireland in or before the day of the date of this our instruction and to no other person or persons whatsoever.

And it is our further will and pleasure that you transmit to our Commissioners for Trade and Plantations as soon as conveniently

may be an exact account of the number of persons brought into our said province of Nova Scotia from our kingdom of Ireland by the said Alexander McNutt on or before the date of this our instruction, and also a particular [account] of the several grants which, in consequence hereof, you shall make to such of the said persons as are now remaining and ready to become settlers on the terms and conditions hereby confirmed to them, in which account you shall specify the number of acres of land contained in each grant, the situation thereof, and the number of men, women, children settled thereon.

Nova Scotia: May 20, 1763.

### 899. GRANT LANDS TO CERTAIN PALATINES

Whereas an humble petition hath been presented unto us by several Palatines, inhabitants within our province of North Carolina,<sup>28</sup> complaining of their having been formerly dispossessed by Col. Thomas Pollock of lands granted to them in our said province by our late royal predecessor, Queen Anne, and that the heirs of the said Pollock have turned them off their possessions, and therefore humbly praying that we would be graciously pleased to restore them to the possession of their said lands at any term of rents that we should think proper; and whereas it hath been represented unto us that there have been proceedings at law in our said province between the said Col. Thomas Pollock and the petitioners, and that the said Col. Thomas Pollock did obtain a decree in the court of chancery in our said province from which decree there has been no appeal, and that the said lands were afterwards surveyed and patented in his name; now we having considered the same as also the hardships which the said petitioners, who are represented to us to be a laborious people and to have many years settled in our said province and to have been employed manufacturing pitch and tar and other useful commodities, have suffered by being dispossessed of their lands as aforesaid, together with the advantages that will arise to our province by the continuance there of a number of useful and industrious inhabitants; it is our will and pleasure and you are hereby directed and required forthwith to make a grant or grants to the said petitioners of so much land in our said province hitherto ungranted as shall be equivalent to the lands they

<sup>28</sup> See *No. Car. Col. Recs.*, IV, 954-956.

have been dispossessed of, to be free from the payment of any quit-rent for the first ten years, but at the expiration of that term to pay the accustomed quit-rent of 4s. proclamation money for every hundred acres so to be granted agreeable to the tenor of our instructions to you upon that head, provided nevertheless, and it is our express will and pleasure, that you do insert a clause in every such grant or grants so to be made by you to the said petitioners declaring that the same shall become void as to so much of the said land thereby to be granted as shall not be cultivated within ten years from the date of each respective grant; and as the settlement of the said Palatines will be a great addition of strength to our said province and be a considerable advantage and security to the inhabitants thereof, we do hereby direct and require you to recommend to the assembly of our said province to make speedy provision in such manner as they shall think proper for defraying the charge of surveying the land so to be granted to the said petitioners and of issuing the grants for the same and all other charges attending such survey and grants.

North Carolina: March 16, 1749.

#### 900. FORFEITURE OF CRYMBLE AND HUEY'S GRANTS

And whereas by our orders in council dated the 19th day of May, 1737,<sup>29</sup> in the tenth year of our reign, we were graciously PLEASED to direct that one million, two hundred thousand acres of land should be set out and granted unto Murray Crymble and James Huey and their associates in such proportion as should be required by them and upon the following terms and conditions, namely, that they should settle one white person for every two hundred acres within ten years from the dates of their grants and also that from and after the expiration of that term they should pay unto us, our heirs, and successors, a quit-rent of four shillings proclamation money for every hundred acres so granted to them; and whereas it hath been represented unto us that in consequence of our said orders in council the associates of the said Murray Crymble and James Huey did in the year 1746 take out ninety-six grants, amounting in the whole to one million, two hundred thousand acres, and whereas it hath been represented unto us that the whole of the said

<sup>29</sup> *No. Car. Col. Recs.*, IV, 253-254. See also on this case *ibid.*, pp. 255-263; V, 626-630; *Acts, Privy Coun., Col.*, 1720-45, § 379; 1745-66, pp. 260-261, 478.

grants have not as yet been settled with white persons in the proportion prescribed by our said orders; our will and pleasure therefore is that you do, upon your arrival inquire what progress hath been made by the said grantees in settling the said lands and how far the terms and conditions of the said grants have been complied with and also what quantities of land remain unsettled in the proportion of one white person to every two hundred acres, and transmit a particular account thereof as soon as conveniently may be to our Commissioners of Trade and Plantations, and when the term of ten years, to be computed from the dates of the said grants, is fully completed and ended, you ARE to seize and take possession of, in our name and right as forfeited and escheated, all such parts and tracts of the said lands As shall not at that time be settled according to the terms of the grants; and you are afterwards to govern yourself in relation to the said lands conformable to the [96th] article of these your instructions relative to forfeitures and escheats.<sup>30</sup> Nevertheless, it is our will and pleasure that you cause proper measures to be taken to secure the payment of our quit-rents upon all such parts of the said grantees' lands as shall at that time be duly and completely settled, by permitting the possessors holding under them by grants and leases to attorn unto us for the payment of the quit-rents and to register at the proper office for such quantity of land as they are actually in possession of respective grants or leases under which they hold their lands.

And whereas it hath been represented unto us that complaint hath been made by Henry McCulloch, in behalf of himself and of other associates of the late Murray Crymble and James Huey that they have been greatly disturbed and molested in the quiet possession of their said grant by the late <sup>31</sup> governor of our said province and others acting under his authority, who took upon them to grant to other persons lands before set out and granted to them, pursuant to our said royal order, our will and pleasure is, and you are hereby directed and required, to maintain and support the said grantees in their just and legal rights and in the quiet possession of their lands.

A—Omit from beginning through PLEASED and substitute: "And whereas our late royal grandfather was graciously pleased by his

<sup>30</sup> See above, § 460.

<sup>31</sup> Opposite the word "late" in the margin of the 1761 instructions entered at C. O. 5: 325, pp. 63-169 is written in pencil "Gabriel Johnston".

orders in council, dated the 19th day of May, 1737, in the tenth year of his reign". Omit IT . . . ARE and substitute: "the times limited for fulfilling the conditions of the said grants are now expired, and it hath been represented unto us that the whole of the said grants have not as yet been settled with white persons in the proportion prescribed by the said orders; it is our will and pleasure, and you are hereby authorized and required". After AS add: "lie to the southward of the Earl Granville's south boundary line and which".

North Carolina: 1754-61; 1761-Rev. A.

### 901. GRANT OF LAND IN OHIO COUNTRY<sup>32</sup>

Whereas a petition hath been presented unto us by John Hanbury of London, merchant, on behalf of himself and of Thomas Lee, Esquire, a member of our council and one of the judges of the Supreme Court of Judicature in our colony of Virginia, Thomas Nelson, Esquire, also a member of our said council, Colonel Cressup, William Thornton, William Nimmo, Daniel Cressup, John Carlisle, Lawrence Washington, Augustus Washington, George Fairfax, Jacob Giles, Nathaniel Chapman, and James Woodrop, Esquires, inhabitants of our said colony of Virginia, and others their associates, praying for a grant of 500,000 acres of land beyond the Great Mountains in our said colony, betwixt Romanettos and Buffalos Creek on the south side of the River Alleghany, otherwise the Ohio, and betwixt the two creeks and the Yellow Creek on the north side of the river, or in such other parts of the west of the said mountains as shall be judged most proper by the said petitioners for making settlements thereon and extending the British trade in those parts; and whereas such settlement will be for our interest and the advantage and security of our said colony as well as the neighboring colonies, inasmuch as our loving subjects will be thereby enabled to cultivate a friendship and carry on a more extensive commerce with the nations of Indians inhabiting those parts, and such exam-

<sup>32</sup> An earlier instruction on this subject was submitted by the Board of Trade, Dec. 13, 1748 (C. O. 5: 1366, pp. 422-425) in consequence of a request by Lieut. Gov. Gooch for directions how to act upon applications for lands in the west. While the matter was pending before the Privy Council the petition of Hanbury and associates was received and the whole matter was referred back to the Board of Trade for further consideration, with the result that the present instruction was submitted and approved. The earlier papers contemplated a total grant of not more than 200,000 acres. C. O. 5: 1366, pp. 427-433; *Acts, Privy Coun., Col., 1745-66*, § 75.

ples may likewise induce the neighboring colonies to turn their thoughts towards designs of the same nature;

It is therefore our will and pleasure and you are hereby directed and required forthwith to make a grant or grants to the said petitioners and their associates of 200,000 acres of land betwixt Romanettos and Buffalos Creek on the south side of the River Alleghany, otherwise Ohio, and betwixt these two creeks and the Yellow Creek on the north side of the river, or as aforesaid to the westward of the Great Mountains within our colony of Virginia, free from the payment of any rights, as also from the payment of any quit-rent for the space of ten years from the date of their grants, at the expiration of which terms the said petitioners are to pay the usual quit-rents for so much of the said lands as they shall have cultivated within that time, provided that you take care in the making such grant or grants to insert a clause or clauses therein declaring that in case they do not erect a fort on the said lands and place a sufficient garrison therein for the security and protection of the settlers, and likewise seat at their proper expense an hundred families thereon in seven years, the said grant or grants shall be void.

And it is our further will and pleasure and you are hereby authorized and required as soon as the said 200,000 acres shall be settled, a fort erected, and a sufficient garrison placed therein, to make a further grant or grants to the said petitioners of 300,000 acres more, residue of the said 500,000 acres of land, under the like restrictions and conditions as the first 200,000 acres and adjoining thereto within the said limits. But lest such indulgence should tempt persons already settled in other parts of our colony upon lands for which the usual quit-rent is paid to desert their former settlements and seat themselves upon the lands so to be granted by you; it is our further will and pleasure that it be an express condition of the said grant or grants that no person already possessed of lands in any other part of our said colony held by us by quit-rent be admitted to take up or settle any of the lands to be granted to the said persons in partnership without giving security for continuing the payment of the quit-rents for the lands by them heretofore possessed notwithstanding their removal.

And it is our further will and pleasure that you do take especial care in the making such grant or grants to the said petitioners as aforesaid that they do not interfere with any grants already made within our said colony, and that the said grant or grants be con-

formable to our instructions to our governor of our said colony of Virginia and to the laws in force within the same relative to the seating and cultivating of lands, except in such particulars as stand altered by this our instruction to you.

Virginia: Feb. 23, 1749.

### 902. TEN-YEAR EXEMPTION FROM QUIT-RENTS FOR WESTERN SETTLEMENTS

Whereas the Burgesses of our colony of Virginia in general assembly met have presented an humble address <sup>ss</sup> unto us setting forth that to the westward of the great ridge of mountains which separates the Rivers Roanoke, James, and Potomac from the Mississippi, there is an extensive country lying within the bounds of our said colony, in which but few of our subjects are yet seated, besides some friendly nations of Indians on or near the River Ohio, who have long since given up their lands to us, and humbly beseeching us that, inasmuch as the peopling that part of the country is of the greatest consequence to the security of our said colony and of our other plantations in America, and in regard the said assembly have made considerable advances towards this desirable end at their own expense, we would be graciously pleased to assist the said undertaking with our royal beneficence, by granting our said lands in small quantities free from the payment of rights and quit-rents for the term of ten years, which from the like indulgence granted by our late royal father to the counties of Brunswick and Spotsylvania at their first erection in the year 1720, they are assured will produce the most happy and desirable effects; we, being sensible that nothing can more effectually tend to the security of our colonies and plantations in America than the enlarging and extending our settlements in those parts of our said colony, are graciously pleased to condescend to the request of the said assembly, and we do hereby authorize and require you to make and pass grants of our said lands lying

<sup>ss</sup> See *Acts, Privy Coun., Col., 1745-66*, § 229. The first part of the address is almost *verbatim* the same as this instruction as far as through the reference to Brunswick and Spotsylvania Counties. The address then goes on to point out that several persons had recently received grants for very large tracts in the west with long-term exemption from quit-rents (see above, § 901) and that poor people and foreign Protestants would be deterred from settling on the frontier unless granted the same benefit. Both the address and the favorable report of the Board of Trade also point out the advantage of such settlements as a check to the encroachments of the French.

to the westward of the said ridge of mountains to such persons as shall be desirous of settling there free from the payment of any quit-rent to us for and during the term of ten years to be computed from the date of their respective grants; and our further will and pleasure is that you do remit the usual fine of five shillings upon each fifty acres to all such persons as shall take out grants of our said land within the space of ten years NEXT ensuing the date HEREOF; provided always, and it is our express will and pleasure, that you do not permit any person already possessed of lands in any other part of our said colony which he holds by quit-rent from us to take up any part or parcel of these lands until he shall have first given good and sufficient security that he will continue to pay unto us our quit-rents for the lands by him possessed and held as aforesaid, notwithstanding his removal; and provided also that you do not grant to any person whatever in his own or in any other name in trust for him a greater quantity of our said lands lying to the west ward of the said mountains than one thousand acres.

A—Omit NEXT . . . HEREOF and substitute: “to be computed from the 27th day of August, 1754”.

Virginia: Aug. 27, 1754-1756; 1756-61 A.

### 903. TAKE ACCOUNT OF STORES IN ST. JOHN

And whereas it hath been represented unto us that there are now sundry stores, materials, and provisions belonging to us within our said island which we have thought fit to intrust to the care and custody of a storekeeper appointed for that purpose, with instructions to obey such directions as he shall receive from you touching the disposal and application thereof to the public service, it is therefore our will and pleasure that you do, upon your arrival in our said island, take an account of such stores, materials, and provisions as are under the care of our storekeeper, as aforesaid; and you are to cause the said stores and materials to be applied and disposed of for the public use and benefit in such manner as shall appear to you to be most advantageous for our service; and in case our said storekeeper shall have sold, or otherwise disposed of, the provisions or any part thereof (which being perishable would not continue long fit for public use) in that case you are to require of our

said storekeeper an account of the produce of such sale, making him such an allowance out of the sum that shall be produced therefrom as you shall think a proper reward for his trouble in this business.

St. John: 1769—Rev.

## PART XV

### COMMERCE, INDUSTRY, AND AGRICULTURE

#### 904. ENTRIES OF IMPORTS AND EXPORTS

THAT we may be the better informed of the trade of our said province, you ARE to take care that due entries be made in all ports of all goods and commodities imported or exported from thence, AND from and to what places they come and go, and that a yearly account thereof be transmitted by you unto us BY one of our principal secretaries of STATE and to our Committee for Trade and Plantations.

A—After ARE add: "with the advice of any seven or more of the said councils respectively".

B—After ARE add: "with the advice and consent of the said council".

C—Omit AND . . . GO.

D—Omit BY . . . STATE.

E—Omit from BY to the end and substitute: "our Commissioners of our Treasury and a duplicate thereof sent to our Council for Plantations".

F—After STATE add: "to our High Treasurer or the Commissioners of our Treasury for the time being".

Barbados: 1672-73 A, D; 1673-80 B, D, F; ( $\frac{906}{}$ ).

Jamaica: 1670-74 B, C, E; 1674-81 B; ( $\frac{906}{}$ ). Massachusetts: 1691-1702 F; ( $\frac{906}{}$ ). New England: 1686-89 B, F.

Leeward Is: 1671-86 A, C, D; ( $\frac{906}{}$ ). New Hampshire: ( $\frac{906}{}$ ); 1692-1702; ( $\frac{906}{}$ ). New York: 1686-1701 F; ( $\frac{906}{}$ ).

Maryland: 1691-98; ( $\frac{906}{}$ ). Virginia: 1679-92 B; ( $\frac{906}{}$ ).

#### 905. ENTRIES OF IMPORTS AND EXPORTS

And that we may be the better informed of the trade of our said islands, you are to take especial care that due entries be made of all goods and commodities, their species and quantity, imported or exported, with the names, burden, and number OF GUNS of all ships coming to or going from the said islands; and you are to transmit

the same unto us and to the Lords of our Privy Council appointed a Committee for Trade and Foreign Plantations quarterly, and duplicates by the next conveyance.

A—Omit OF GUNS.

Bermuda: 1686–98; 1698–1700 A; 1700–2; (§ 906).

**906. ENTRIES OF IMPORTS, EXPORTS, AND SHIPS**

And that we may be the better informed of the trade of our said province you are to take especial care that due entries be made in all ports of our said province of all goods and commodities, THEIR species and QUANTITIES, imported or exported from thence, with the names, burden, and guns of all ships IMPORTING and exporting the SAME; also the names of their commanders, and likewise expressing from and to what places the said ships do come and go, a copy whereof the naval OFFICER is to furnish you with; and you are to transmit the same unto US OR our High Treasurer or our Commissioners of our Treasury for the time BEING and to our Commissioners for Trade and PLANTATIONS quarterly, and duplicates thereof by the next conveyance.

A—Omit THEIR . . . QUANTITIES.

B—Omit IMPORTING . . . SAME and substitute: “coming to or going from the said province”.

C—After OFFICER add: “in each respective district”.

D—After US add: “by one of our principal secretaries of state”.

E—Omit OR . . . BEING and substitute: “by one of our principal secretaries of state”.

F—Omit OR . . . PLANTATIONS and substitute: “and to the Lords of our Privy Council appointed a Committee for Trade and Foreign Plantations”.

Barbados: (§ 904); 1680–89 B, F; 1689–1702 B; 1702–21.

Bermuda: (§ 905); 1702–21.

Jamaica: (§ 904); 1681–89 B, F; 1689–1701 B; 1701–2 D; 1702–27; (§ 907).

Leeward Is.: (§ 904); 1686–99 B, F; 1699–1721.

Maryland: (§ 904); 1698–1703 A, C, E; 1703–15 C.

Massachusetts: (§ 904); 1702–28.

New Hampshire: 1682–86 B, F; (§ 904); 1702–28.

New Jersey: 1702–27.

New York: (§ 904); 1701–3 D; 1703–27.

South Carolina: 1720–30.

Virginia: (§ 904); 1698–1702 A, C, E; 1702–28 C.

**907. REPORT ON IMPORTS AND EXPORTS OF JAMAICA<sup>1</sup>**

Whereas it is necessary that we should be distinctly informed of the trade of our island under your government, you are to take especial care that due entries be made in all the ports of our said island of all goods and commodities, their species and quantities, imported or exported from thence with the names, burdens, and guns of all ships importing and exporting the same, also the names of the commanders, and likewise expressing from and to what place the said ships do come and go, a copy whereof the naval officer is to furnish you with; you shall therefore every three months or oftener or otherways as there shall be opportunity of conveyance transmit to our High Treasurer or to the Commissioners of our Treasury for the time being and to our Commissioners for Trade and Plantations copies of the said accounts, as also of the invoice, which every master is to give you at his clearing, of the contents and quality of his lading, &c., according to the specimen annexed to your instructions in relation to the Acts of Trade and Navigation.

Jamaica: (§ 906); Oct. 12, 1727.

**908. EXAMINE RATES AND DUTIES IN PROVINCE**

And you are likewise UPON YOUR ARRIVAL AT — to examine what rates and duties are charged and payable upon any goods imported or exported THERE, whether of the growth or manufacture of the said province or otherwise, AND what profit or revenue doth arise to us in the said province, of what nature they are, by whom collected, and how answered and accounted to us, and to use your best endeavors in the improvement of them; and to send YEARLY an account thereof to us by one of our principal secretaries of state and to our High Treasurer or to the Lords of our Privy Council appointed a Committee for Trade and Foreign Plantations.

A—Omit UPON YOUR ARRIVAL AT —

B—After THERE add: "and in all other the respective islands under your government".

C—Omit from AND to end and substitute: "and use your best endeavors in the improving the trade of those parts".

<sup>1</sup> The Board of Trade omitted § 906 from the general instructions of 1727 for Jamaica, apparently by error, and later supplied the deficiency by this additional instruction. C. O. 5: 190, pp. 461–462.

D—Omit **YEARLY**.

E—Omit **YEARLY** and substitute: “half-yearly”.

Barbados: 1672–80 B; 1680–89 B, E; 1702–22 A, C; (§ 910).	B, E; 1699–1702 A, E; 1702–28 A, C; (§ 910).
Bermuda: 1686–1702 A, E; 1702–28 A, C; (§ 910).	Maryland: 1703–15 A, C.
Jamaica: 1670–74 D; 1674–81; 1701–2 A, E; 1702–22 A, C; (§ 910).	New Jersey: 1702–27 A, C; (§ 910).
Leeward Is: <sup>2</sup> 1671–86 B, D; 1686–99	New York: 1701–3 A, E; 1703–27 A, C; (§ 910).
	Virginia: 1679–82; 1702–28 A, C; (§ 910).

### 909. SUPPRESS ENGROSSING OF COMMODITIES

You are to suppress the engrossing of commodities, AS TENDING to the prejudice of that freedom which trade and commerce ought to HAVE; and to settle such orders and regulations therein with the advice of our said council as may be most ACCEPTABLE to the generality of the inhabitants.

A—Omit **AS TENDING** and substitute: “if it tends”.

B—Omit **AS . . . HAVE**.

C—Omit from **ACCEPTABLE** to the end and substitute: “conducive to the benefit and improvement of that colony”.

Barbados: 1689–1722; (§ 910).	New Hampshire: 1692–1702 B; 1702–28; (§ 910).
Bermuda: 1702–28; (§ 910).	New Jersey: 1702–27 C; (§ 910).
Jamaica: (§ 911); 1674–78 A; 1678–1722; (§ 910).	New York: 1686–1727; (§ 910).
Leeward Is: 1689–1728; (§ 910).	South Carolina: 1720–30; (§ 910).
Maryland: 1691–1703 B; 1703–15.	Virginia: 1679–90; 1690–1702 B; 1702–28; (§ 910).
Massachusetts: 1691–1728; (§ 910).	
New England: 1686–89.	

### 910. EXAMINE RATES AND DUTIES; SUPPRESS ENGROSSING

You are to EXAMINE what rates and duties ARE charged and payable upon goods imported or exported from —, whether of the growth or manufacture of the said province or OTHERWISE; and you are to suppress the engrossing of commodities as tending to the prejudice of that freedom which trade and commerce ought to have, and TO use your best endeavors for the improvement of the trade of those parts, by settling such orders and regulations therein, with

<sup>2</sup> Fill blank in line 1 with “Nevis” in 1671 and 1672 instructions; and with “within your government” in 1686 and 1689 instructions.

the advice of our said council, as may be most acceptable to the generality of the inhabitants; AND to send to our Commissioners for Trade and Plantations, in order to be laid before us, yearly or oftener as occasion may require, the best and most particular account of any laws that have at any time been made, manufactures set up, or trade carried on in the province under your government which may in any wise affect the trade and navigation of this kingdom.

A—Omit from beginning through OTHERWISE.

B—Omit EXAMINE . . . TO.

C—Omit ARE . . . OTHERWISE and substitute: "shall at any time be charged by the assembly upon goods imported or exported within the said islands, and take care they be laid in the most just and equitable manner and least detrimental to the merchants".

D—Omit from AND to the end.

E—Omit from AND to the end and substitute: "and it is our express will and pleasure that you do not upon any pretense whatever upon pain of our highest displeasure, give your assent to any law or laws for setting up any manufactures or carrying on any trades which are hurtful and prejudicial to this kingdom; and that you do use your utmost endeavors to discourage, discountenance, and restrain any attempts which may be made to set up such manufactures or establish any such trades".

F—Add at the end of the full text the same words as the substitution given in E.

Bahamas: 1729-33 C, D; 1733-Rev. C.

Barbados: (§§ 908, 909); 1722-56 D;  
1756-Rev.

Bermuda: (§§ 908, 909); 1728-45 D;  
1745-55; 1755-Rev. A.

Dominica: 1770-Rev. B, E.

East Florida: 1763-Rev. B, E.

Georgia: 1754-61 A; 1761-Rev. A, F.

Grenada: 1763-71 B, E; 1771-Rev.

Jamaica: (§§ 908, 909); 1722-34 D;  
1734-Rev.

Leeward Is: (§§ 908, 909); 1728-33 D;  
1733-Rev.

Massachusetts: (§ 909); 1728-41 D;  
1741-61; 1761-Rev. F.

New Hampshire: (§ 909); 1728-41 D;  
1741-61; 1761-Rev. F.

New Jersey: (§§ 908, 909); 1727-47 D;  
1747-61; 1761-Rev. E.

New York: (§§ 908, 909); 1727-41 D;  
1741-61; 1761-Rev. F.

North Carolina: 1730-54 D; 1754-61;  
1761-Rev. F.

Nova Scotia: 1749-56 A; 1756-64 D;  
(§ 922); 1764-Rev. E.

Quebec: 1763-Rev. B, E.

St. Vincent: 1776-Rev. B, E.

South Carolina: (§ 909); 1730-61 D;  
1761-Rev. F.

Virginia: (§§ 908, 909); 1728-61 D;  
1761-Rev. E.

West Florida: 1763-Rev. B, E.

### 911. ENCOURAGEMENT TO JAMAICA TRADE; CUSTOMS EXEMPTION

You are to give all due encouragement and invitation to merchants and others who shall bring trade unto our said island or any way contribute to its advantage, and much as in you lies discountenance and suppress the engrossing of commodities if it tend to the prejudice of that freedom which commerce and trade ought to have, and that you settle such orders and regulations therein with the advice of the council as may be most acceptable to the generality of the INHABITANTS. And that we on our part may do what in us lies for their ease, we are content to allow that no custom in our said island of Jamaica be laid upon any goods imported into or exported out of that island for fourteen years to be accounted from the 18th day of February NEXT following the date hereof,<sup>3</sup> but that they be not exempted from paying customs in England as the rest of our plantations.

A—Omit from beginning through INHABITANTS. Omit from NEXT to the end and substitute: "1670".<sup>4</sup>

Jamaica: 1670–74; 1674–78 A; (§§ 909, 910, 912).

### 912. ENCOURAGEMENT TO MERCHANTS, ESPECIALLY AFRICAN COMPANY

You are to give all due encouragement and invitation to merchants and others who shall bring trade into our said province OR any way contribute to the advantage THEREOF, AND in particular to the ROYAL African Company of England.

A—Omit OR . . . THEREOF.

B—Omit from AND to the end.

C—Omit from AND to the end and substitute: "and to encourage the Indians upon all occasions so that they may apply themselves to the English trade and nation rather than to any other".

D—Omit from ROYAL to the end and substitute: "Royal Company of Adventurers Trading into Africa".

E—Add at end: "and others our subjects trading to Africa".

<sup>3</sup> The instructions being dated Dec. 31, 1670, the exemption would run from Feb. 18, 1670/71.

<sup>4</sup> Old style; 1671, new style.

## 656 COMMERCE, INDUSTRY, AGRICULTURE [§ 912]

Bahamas: 1729-59 E.  
Barbados: 1672-80 D; 1680-1721;<sup>5</sup> 1721-56 E.  
Bermuda: 1686-1721; 1721-55 E.  
Jamaica: (§§ 911, 933); 1674-78 D; 1678-1722; 1722-Rev. E.  
Leeward Is: 1671-86 D; 1686-1728; 1728-53 E.  
Maryland: 1691-1715.  
Massachusetts: 1691-1728; 1728-57 E.  
New England: 1686-89 A.  
New Hampshire: 1682-86; 1682-1728; (§ 664); 1728-61 C.  
New Jersey: 1702-32; 1732-58 E.  
New York: 1686-1732; 1732-53 E.  
North Carolina: 1730-54 E.  
Nova Scotia: 1749-56 B.  
South Carolina: 1720-30; 1730-55 E.  
Virginia: 1679-1728; <sup>5</sup> 1728-56 E.

## 913. ENFORCEMENT OF TRADE ACT OF 1708

Whereas an act was passed THIS last session of PARLIAMENT in the sixth and seventh years of our reign, 1707/8, entitled *An Act for the Encouragement of the Trade to America*,<sup>6</sup> a copy whereof will be herewith delivered to you; you are to take care that the same be duly complied with.

### A—Omit THIS . . . PARLIAMENT.

Barbados: 1710-15 A.  
Jamaica: 1710-15 A.  
Leeward Is: 1711-15 A.  
New Jersey: 1708-9; 1709-15 A.  
New York: 1708-9; 1709-15 A.  
Virginia: 1710-15 A.

## 914. BERMUDA MAGAZINE SHIP

And whereas, for the encouragement of merchants and security of our customers and duties, we have thought fit to appoint a magazine ship to bring to our port of London all such tobacco as shall be exported from our said islands for the usual freight, you are not to permit any tobacco to be laden on board any other ship or vessel until our magazine ship shall be fully laden; after which you are to permit any other ship or vessel to lade on board any remaining tobacco; the master of such ship or vessel having first given good security to unlade the same at the port of London and at no other port or place whatsoever.

Bermuda: 1686-90.

<sup>5</sup> Also given as part of additional instructions to Barbados, Dec. 5, 1687, and to Virginia, April 3, 1687.

<sup>6</sup> 6 Anne, c. 64.

**915. EXPORTED TOBACCO TO PAY LOCAL DUTIES**

And you are to take especial care that all tobaccos shipped in VIRGINIA, from what part soever they come, do pay VIRGINIA duties.

A—Omit VIRGINIA in both places and substitute “Maryland” in each place.

Maryland: 1691–1715 A.

Virginia: 1679–1756.

**916. APPOINTMENT OF FIT COLLECTORS AND NAVAL OFFICERS**

You are to take great care, with the advice of our council, in appointing fit and duly qualified persons for the collecting the aforesaid duties<sup>7</sup> and the like for the employment of naval officers.

Maryland: 1698–1715.

**917. SEPARATE OFFICES OF COLLECTOR AND NAVAL OFFICER**

You shall not commit the care of those different employments<sup>8</sup> unto one and the same persons, nor any of them unto persons much concerned in trade who may be apt to be thereby biased from their respective duties, nor unto the members of our council there.

Maryland: 1698–1715.

Virginia: 1698–1756.

**918. GAUGE OF TOBACCO HOGSHEADS**

Whereas an address from the general assembly of our province of Maryland relating to the gauge of tobacco hogsheads has been presented to us,<sup>9</sup> and whereas we have caused the same to be examined by our Commissioners for Trade and Plantations, who have represented to us their opinion in the words following, viz:

“In obedience to your Majesty’s order in council we have considered the annexed address of the general assembly of Maryland, wherein they complain of some hardships they lie under with re-

<sup>7</sup> The duty of two shillings per hogshead on tobacco exported, etc.

<sup>8</sup> That is, collector of the export duty of two shillings per hogshead on tobacco, and naval officer.

<sup>9</sup> See *Maryland Arch.*, XXVII, 279–280.

gard to the freight of British shipping employed in the tobacco trade of that province, particularly in that of the gauge of the tobacco hogsheads is not allowed to be two inches in the diameter of the head larger than those of Virginia, to justify which increase of measure they say that Maryland tobacco being more chaffy and consequently much lighter than that of Virginia, three thousand two hundredweight of the Virginia is generally brought hither as cheap as 2200-weight of the Maryland tobacco, and therefore pray they may be permitted to pass a law for the making their tobacco hogsheads two inches in the diameter of the head larger than those of Virginia, yet of equal length with them.

"Whereupon we take leave to represent to your Majesty that an act having sometime since been passed by the general assembly of that province whereby it was enacted that the gauge of tobacco hogsheads to be made there should be larger than that of Virginia hogsheads, according to the abovementioned difference of proportion,<sup>10</sup> and we having laid the said act before your Majesty the 23d of March, 1707/8, with our humble opinion that for the reasons then given the same was unfit to be approved; <sup>11</sup> your Majesty was pleased by your order in council of the 20th of April, 1708, to repeal the said act; <sup>12</sup> and notwithstanding anything in the address, we are still of opinion that the Maryland hogsheads ought to be of the same size as those of Virginia.

"For the sweet-scented Virginia tobacco will bear pressing better than the Maryland tobacco, and consequently a hogshead of the former sort will weigh considerable more than a hogshead of the latter; yet the Virginia tobacco by being pressed too close does frequently become black and of less value, whereby the owner thereof loses in price what he gets in freight. Besides, we are informed that in several parts of Virginia, particularly on James River, the same sort of tobacco is produced as in Maryland; so that it were but reasonable that the like increase of measure in the size of tobacco hogsheads should be allowed to the planters in those parts of Virginia as is desired by the people of Maryland, which would be a considerable loss to the owners of shipping with regard

<sup>10</sup> *Maryland Arch.*, XXVI, 331-332.

<sup>11</sup> *Cal. State Paps., Col.*, 1706-8, § 1404 i.

<sup>12</sup> The order in council was dated April 1, 1708, not April 20; *Cal. State Paps., Col.*, 1706-8, § 1425; *Acts, Privy Coun., Col.*, 1680-1720, § 1056; *Maryland Arch.*, XXV, 246-247.

to stowage, the ships employed in the tobacco trade being built to the size of the Virginia hogsheads, that is, to contain in the hold seven hogsheads in depth; whereas, should the Maryland hogsheads be two inches larger in the diameter of the head, those ships would contain but six hogsheads and half in depth, were a hogshead divided into two, so that the owners of shipping will be under a necessity either of cropping the hogsheads or building new ships or of leaving off that trade.

"We have likewise been informed that if the Maryland planters would take the same care (which some of them do) in packing their tobacco as is taken by the planters in Virginia, every hogshead would contain near a fourth part more than it now usually contains, for 'tis found by experience that sometimes a Maryland tobacco hogshead is from seven to eight hundred pound weight, which is as heavy as a hogshead of the light sort of tobacco from Virginia.

"The general assembly does complain in this their said address of frequent abuses committed by masters of ships in cropping the hogsheads, whereby great quantities of tobacco are much damaged, for remedy whereof the assembly say they found it necessary to pass an act,<sup>18</sup> but the same has been since repealed by your Majesty, whereupon we further humbly take leave to represent to your Majesty that the abovementioned act concerning the gauge of tobacco hogsheads and the other against cropping them were repealed at the same time by your Majesty's aforesaid order in council, in regard it was not thought reasonable that one should continue in force and not the other; that is, the masters of shipping subject to a penalty for cropping the hogsheads, and yet the planters under no tie as to a reasonable gauge of them; besides that the penalty in the act against cropping was much greater than in the other.

"As to the passing a new law in Maryland for preventing the cropping tobacco hogsheads, the owners of shipping employed in that trade who have attended us on this occasion do say they have no objection thereto, provided a law be passed there at the same time to reduce the Maryland hogshead to the size of that made in Virginia, and that the penalty be the same in both laws, which appears to us very reasonable; wherefore we humbly offer that your Majesty's pleasure be signified to the governor or commander in

<sup>18</sup> Passed April 15, 1707, *Maryland Arch.*, XXVII, 157-159. For its repeal see the last note above.

chief of the province of Maryland for the time being to acquaint the said general assembly that they may pass two acts for the several purposes with a like penalty for enforcing the same as aforesaid.

"Lastly, they desire that when any merchant or other person does apply to your Majesty in opposition to any of their laws, they may have an opportunity of being heard in support of them; this we have always looked upon as a rule of common justice, and have accordingly observed it in all matters that have come before us, with regard to such of the plantations as have an agent or agents, which at present is not the case of the people of Maryland, who for some years past has [*sic*] had no agent here; but when a law passed there shall be transmitted hither in order to its being laid before your Majesty and the same shall be liable to such objections as not to be fit for your royal assent, we cannot think it advisable that the said act should nevertheless continue in force till those objections are communicated to the general assembly of Maryland and answers thereunto returned from thence, whereby the mischiefs or hardships complained of in such law must necessarily continue a much longer time than would be fitting.

"Therefore we humbly propose that it be recommended to them to appoint some fit person or persons residing here to be agent or agents for that province, who being fully empowered and instructed may from time to time as occasion shall require, take care of and negotiate all such matters as may concern the said province, all which is most humbly submitted."

Which representation having been laid before us in council and approved of, it is our will and pleasure that after the receipt hereof you recommend to the next general assembly of our said province the passing an act or acts for preventing the cropping of tobacco hogsheads and for reducing the Maryland hogsheads to the size of those made in Virginia, and that you take care the penalty for the breach of either of the said laws be the same.

Our further will and pleasure is that some fit person residing here be appointed agent for that province, who being fully empowered and instructed, may from time to time as occasion shall require take care of and negotiate all such matters as may concern the said province.

### 919. NEW JERSEY CUSTOMS DUTIES TO EQUAL NEW YORK'S

Whereas it is not reasonable that any of our colonies or plantations should by virtue of any exemptions or other privileges whatsoever be allowed to seek and pursue their own particular advantages by methods tending to undermine and prejudice our other colonies and plantations, which have equal title to our royal care; and whereas the trade and welfare of our province of New York would be greatly prejudiced if not entirely ruined by allowing unto the inhabitants of Nova Caesaria or New Jersey any exemption from those charges which the inhabitants of New York are liable to; you are therefore in the settling of a public revenue as before directed to propose to the assembly that such customs, duties, and other impositions be laid upon all commodities imported or exported in or out of our said province of Nova Caesaria or New Jersey as may equal the charge that is or shall be laid upon the like commodities in our province of New York.

New Jersey: 1702-38.<sup>14</sup>

### 920. HUDSON RIVER AND INDIAN TRADE RESERVED TO NEW YORK

Whereas we are informed that some of the colonies adjoining to our said province, under color of grants or upon some other groundless pretenses, endeavor to obstruct the trade of New York and Albany; you are not to suffer any innovation within the River of New York, nor any goods to pass up the same, but what shall have paid the duties at New York, to the end the chief benefit of that trade may be preserved to the inhabitants and traders of New York and Albany, the same being agreeable to the laws of the said province, to former practice, as well as necessary for the collecting those customs and other duties which are to be raised for the support of the government there. And if you find the inhabitants

<sup>14</sup> In its representation submitting the 1738 instructions, dated April 14, 1738, the Board of Trade explained that they had dropped this article "it being contrary to the general tenor of your Majesty's instructions to all your other governors in America, to lay any duties on British goods or shipping." *N. J. Arch.* 1st ser., VI, 14.

of East Jersey have any other way of trading with the Indians than by the said River of New York, you are to use your endeavors to prevent the same, and to give us advice thereof with your opinion what is proper to do therein, we being willing to preserve the Indian trade as entire as may be for the benefit of the inhabitants and traders of our said province preferably to all others.

A—Omit from AND to the end.

B—Omit from we to the end.

New York: 1686–88; 1690–1703 B; 1703–53 A.

## 921. PROSECUTION OF ILLEGAL TRADERS IN NEW YORK

And whereas it is highly necessary for his Majesty's service that all persons guilty of piracy be severely punished and that all manner of illegal trade be as much as possible discouraged and prevented; and we observe by the forementioned representation of the state of that province<sup>15</sup> that there have been and are several persons residing in the same under the shelter of protections granted by Colonel Fletcher, which neither can nor ought to be of any avail for such things as the said persons may be found guilty of having committed contrary to law; we do therefore hereby direct and require you to use all possible diligence in finding out all such persons and prosecuting them with the utmost severity according to law, and likewise to use the same care and diligence in preventing the practices of illegal traders and punishing all persons that you find guilty thereof as the law directs.

New York: Nov. 10, 1698.

## 922. DISCOURAGE MANUFACTURES IN NOVA SCOTIA

And it being our intention to give all possible encouragement to the trade of all our subjects, you are to use your best endeavors to that end, taking care that no trade be carried on or manufacture set up in our said province that may interfere with the trade or manufactures of this kingdom.

Nova Scotia: 1749–64; (§ 910).

<sup>15</sup> From the Board of Trade to the Lords Justices, Oct. 9, 1698, *N. Y. Col. Docs.*, IV, 385–396.

### 923. PERMISSION REQUIRED TO BOARD SHIPS

During these troubles<sup>16</sup> you shall exactly put in execution the instruction not to suffer any to go on board any merchant ships or other vessels coming into any port or anchoring in any road of that our colony without your certificate and permission. And you shall have a special care that NEITHER Nathaniel Bacon in particular nor any of his ACCOMPLICES be suffered so to do.

A—Omit NEITHER . . . ACCOMPLICES and substitute: “none of the rebels”.

Virginia: Oct. 13, 1676 (to Gov. Berkeley); Nov. 11, 1676 A (to Lieut. Gov. Jeffreys).

### 924. PREVENTION OF FRAUD IN TWO-SHILLING DUTY (I)

Whereas upon considering the entries at our custom-house here in England with the two shillings per hogshead on tobacco and other duties and impositions due us in Virginia, we are certainly informed of great frauds and abuses, both for the payment thereof by masters of ships and others, and the collection of our officers; you are to use all legal means for the prevention thereof and for the improvement of the said revenues. And whereas such abuses cannot be committed without the apparent negligence of the collectors or their connivance with the said masters of ships and other PERSONS, you are strictly to charge and command them and every of them in our name to be more diligent and careful for the future, under penalty of forfeiture of their respective places by your putting others in their stead on the first offense, and of our highest displeasure. And you are from time to time to give us a particular account of your proceedings herein and of the duties and impositions collected and disposed of pursuant to former directions.

A—After PERSONS add: “you are to take great care with the advice of the council in appointing fit and duly qualified persons for collecting of those duties and the like for the employment of naval officers”. After us add: “by our Commissioners of our Treasury or our High Treasurer for the time being and to our Commissioners for Trade and Plantations”.

Virginia: 1682-98; 1698-1756 A; (§ 926).

<sup>16</sup> Consequent upon Bacon's Rebellion.

**925. OBLIGATIONS OF COLLECTORS AND NAVAL OFFICERS**

You shall take care that each of the persons appointed by you to the said employments (as well naval officers as collectors) be sworn to execute faithfully and diligently their respective offices in their own persons, not by deputies unless in cases of absolute necessity, and that those deputies be then likewise sworn to the faithful and diligent execution of their said respective offices, and that each of the said officers or their deputies be required accordingly to give their attendance at such certain times and places as you with the advice of the said council shall direct.

Maryland: 1698-1715.

Virginia: 1698-1756; (§ 926).

**926. PREVENTION OF FRAUD IN TWO-SHILLING DUTY (II)**

And whereas by an act passed in our said colony of Virginia in the thirty-second year of the reign of King Charles the Second, entitled *An Act for Raising a Public Revenue for the Better Support of the Government of This His Majesty's Colony of Virginia*,<sup>17</sup> a duty of two shillings current money of this kingdom is imposed on every hogshead of tobacco exported out of our said colony, the same to be to his said Majesty, his heirs, and successors for ever to and for the better support of the governors of the said colony; and whereas it hath been represented to us that great frauds and abuses have formerly been committed in our said revenue, as well in the payment of the said duty by the masters of ships and other persons on whom the same is chargeable, as in the collection thereof by our officers appointed to receive and collect the said duty; you are therefore to take especial care that the several provisions in the said act made and established for the better discovering and preventing of frauds be strictly observed and duly carried into execution, and that all persons employed in the receipt and collection of our said revenue do take a solemn oath faithfully to execute their respective offices in their own persons and not by deputies, unless in cases of absolute necessity, and in such case that the deputies be likewise sworn to the faithful and diligent execution of the trusts reposed in them respectively. And it is our further will and pleasure

<sup>17</sup> Hening, *Statutes at Large*, II, 466.

that if you shall find any person employed in the receipt of our said revenue to be guilty of any fraud or neglect in the execution of his office, you do immediately remove such person from his place and appoint a fit person in his stead, giving unto our Commissioners of our Treasury or to our High Treasurer for the time being and to our Commissioners for Trade and Plantations speedy notice of your proceedings therein. And you are to transmit unto our said Commissioners of our Treasury or our High Treasurer for the time being and to our Commissioners for Trade and Plantations every half year an account of the amount of our said revenue, specifying how the same has been disposed of.

Virginia: (§§ 924, 925); 1756-Rev.

#### 927. PROSECUTE INTERLOPERS IN AFRICAN TRADE

And we do hereby strictly charge and require you that upon due information exhibited before you or any of our judges or courts of justice within your government against any person or persons who have been or shall be concerned in any interloping ships or in any Negroes or goods imported contrary to our charter granted to the Royal African Company, or against such as shall be aiding or assisting to any interloper or their accomplices, or shall in any manner whatsoever bring any Negroes into any part of your government or purchase any other than such as are imported and brought in by our Royal African Company, their factors, or assigns, you do in all such cases take especial care that all such contemners of our royal charter and command be severely punished by fines, imprisonments, and such other penalties as the quality of their offenses may require.

Barbados: Dec. 5, 1686-1694; (§ 928).

Leeward Is: 1686-99; (§ 928).

Bermuda: 1686-98; (§ 928).

Virginia: April 3, 1687.

Jamaica: 1687-92; (§ 928).

#### 928. ROYAL AFRICAN COMPANY'S MONOPOLY

And you are to take care that there be no trading from — to any place or part in Africa within the charter of the Royal African Company; AND you are not to suffer any ships to be sent thither without their leave or authority.

A—Omit from AND to the end and substitute: "otherwise than prescribed by an act of parliament, entitled *An Act to Settle the Trade of Africa*".<sup>18</sup>

B—Omit from AND to the end and substitute: "otherwise than prescribed by law".

Barbados: (§ 927); 1702–15 A.	New Hampshire: 1692–1702; 1702–15 A.
Bermuda: (§ 927); 1700–15 A.	New Jersey: 1702–15 A.
Jamaica: 1678–81; (§ 927); 1701–15 A.	New York: 1686–97; 1701–15 A.
Leeward Is: (§ 927); 1699–1715 A.	Virginia: 1679–98; 1698–1705 A; 1705–28 B.
Maryland: 1691–98; 1698–1714 A.	
Massachusetts: 1701–15 A.	
New England: 1686–89.	

### 929. ROYAL AFRICAN COMPANY TO GET DUE PAYMENTS

And as we are willing to recommend to the said COMPANY that the said province may have a constant and sufficient supply of merchantable Negroes at moderate rates in money or commodities; so you are to take especial care that payment be duly made and within a competent time, according to their agreements.

A—After COMPANY add: "and other our subjects".

B—Add at end: "it being against reason to expect that any should send good wares to a known bad market".

Bahamas: 1729–59 A.	Maryland: 1703–15.
Barbados: 1672–89 B; <sup>19</sup> 1689–1756.	New Jersey: 1702–38; 1738–58 A.
Bermuda: 1686–1755.	New York: 1701–53.
Jamaica: 1674–1685 B; 1685–1722; 1722–Rev. A.	North Carolina: 1730–54 A.
Leeward Is: 1672–86 B; 1686–1728; 1728–53 A.	South Carolina: 1720–30; 1730–55 A.
	Virginia: 1682–85 B; Apr. 3, 1687 B; 1702–56.

### 930. FREQUENT COURTS FOR COLLECTING SLAVE TRADERS' DEBTS

And whereas THE said company AND OTHER TRADERS, having frequently great sums of money owing to them in our plantations in AMERICA, have been much hindered in the recovery of their just debts there and discouraged in their trade by the too frequent ad-

<sup>18</sup> 9 Wm., III, c. 26.

<sup>19</sup> Also give as part of an additional instruction to the lieutenant governor of Barbados, Dec. 5, 1686.

journment of courts; and it being absolutely necessary that all obstructions in the courts of justice be effectually removed; you are to take care that courts of justice be duly and frequently held in our province under your government, so that all our subjects IN the said province, and particularly the Royal African Company AND OTHERS TRADING TO AFRICA, may enjoy the benefit thereof and not receive any undue hindrance in the recovery of their just debts.<sup>20</sup>

A—Omit AND OTHER TRADERS.

B—Omit AND OTHERS TRADING TO AFRICA.

C—Omit THE . . . OTHER. Omit IN . . . AFRICA.

D—Omit from beginning through AMERICA and substitute: "And whereas complaint hath heretofore been made by merchants trading to our plantations in America that they." Omit IN . . . AFRICA.

Bahamas: 1729-59.

Barbados: 1707-10 A, B; 1710-21 B;  
1721-56.

Bermuda: 1713-21 A, B; 1721-55.

Jamaica: 1710-22 A; 1722-52; 1752-58  
C; 1758-Rev. D.

Leeward Is: 1704-21 A, B; 1721-53.

Maryland: 1714-15 B.

North Carolina: 1730-54.

South Carolina: 1720-55 B.

Virginia: 1707-28 B; 1728-56.

### 931. REPORT ON NUMBERS OF NEGROES IMPORTED

And we do further expressly command and require you to give unto us and to our Commissioners for Trade and Plantations AN account EVERY HALF-YEAR of what number of Negroes the said province is supplied with, THAT is, what number by the African Company, and what by separate TRADERS, and at what rates sold.<sup>21</sup>

A—Omit from beginning through HALF-YEAR and substitute: "And you are to give an account unto us and to our Commissioners for Trade and Plantations." After is add: "yearly."

B—Omit from beginning through you and substitute: "And you are from time to time." Omit EVERY HALF-YEAR. After is add: "yearly."

<sup>20</sup> A royal circular letter of April 8, 1700, anticipated much of the phraseology of this instruction. It mentioned particularly complaints received from the Royal African Company. C. O. 324: 7, p. 191; *Cal. State Paps., Col.*, 1700, § 280 i.

<sup>21</sup> On April 15, 1708, the Board of Trade wrote a long letter to the governors of Barbados, Bermuda, Jamaica, Leeward Is., Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Virginia, the proprietors of Carolina, and the governors and companies of Connecticut and Rhode Island, to the effect of this instruction in its full form, as the question was about to come before parliament. All the royal governors except in New Hampshire received an additional paragraph since they had not complied with this instruction. C. O. 324: 9, pp. 165-170; *Cal. State Paps., Col.*, 1706-8, § 1434; *Penna. Arch.*, 1st ser., I, 152.

C—Omit from beginning through you and substitute: "And you are yearly." Omit EVERY HALF-YEAR. After is add: "yearly."

D—Omit AN . . . HALF-YEAR and substitute: "once in every year the best account you can procure."

E—Omit from THAT to the end.

F—Omit THAT . . . TRADERS.

G—Add at end: "and how paid for."

Bahamas: 1729-59; 1759—Rev. E.

Barbados: 1672-73 B, F; 1673-97 C, F;  
1702-10 C, F; 1710-56; 1756—Rev. E.

Bermuda: 1700-13 A, F; 1713-55.

Georgia: 1754—Rev. E.

Grenada: 1763—Rev. F.

Jamaica: 1674-81 C, F; 1687-89 C, F;  
1701-10 C, F; 1710-52; 1752-67 F;  
1767—Rev. E.

Leeward Is: 1672-86 B, F; 1686-1711  
C, F; 1711-53; 1753—Rev. F.

Maryland: 1703-14 C, F; 1714-15.

New Jersey: 1702-8 C, F; 1708-58;  
1758—Rev. D, E.

New York: 1701-8 C, F; 1708-53; 1753—  
Rev. D, E.

North Carolina: 1730-54; 1754—Rev. E.

Nova Scotia: 1749-56 E.

South Carolina: 1720-55; 1755—Rev. E.

Virginia: 1679-82 C, F, G; 1702-10 C,  
F; 1710-56; 1756—Rev. F.

### 932. THE BERMUDA COMPANY'S NEGROES

And whereas we are informed that there are several Negroes, Mulattos, and Mestees lately belonging to the company in several private hands, the which ought to be seized, you are to take care thereof and to return an account of the same, as also what servants you and other officers want, that so they may be thereby supplied with their full numbers and that the overplus may be disposed of and applied to repairs and new fortifications, which number every officer is to leave his successor, that so the same may be perpetuated.

Bermuda: 1686-1755.

### 933. ENCOURAGE ROYAL AFRICAN COMPANY'S TRADE

You shall owe all due encouragement to the trade which the Royal Company Trading into Africa shall set on foot in our said island.

Jamaica: 1670-74: (§ 912).

### 934. ROYAL AFRICAN COMPANY'S JAMAICA TRAFFIC

You are also to take care as much as in you lies that our order of council bearing date the 12th of November last past<sup>22</sup> be duly

<sup>22</sup> See *Cal. State Paps., Col.*, 1677-80, § 1583.

observed, wherein we have directed that the said company shall send 3,000 merchantable Negroes yearly to Jamaica, provided they have good payments of their debts contracted there; and that they do afford merchantable Negroes to the inhabitants at eighteen pounds per head to be paid there at six months' forbearance upon good security to be given for such payment; which Negroes are to be sold by lots made for the whole cargo of the merchantable Negroes of every ship without any reservation whatsoever.

And in case there be any default on the part of the said company or of the inhabitants of our island to comply with this regulation, you shall signify the same unto us that we may give all necessary orders therein.

Jamaica: 1681-85.

### 935. SLAVE TRADE TO SPANISH COLONIES (I)

And whereas we are informed that permission is granted from Spain for the shipping of that kingdom to come to our island of Jamaica to buy Negroes, which trade will probably be of considerable advantage to our subjects, and particularly to the Royal African Company; our will and pleasure is that for the encouragement of the said trade you take especial care that such ships or persons as shall come to that our island be civilly treated and receive all fitting encouragement in their design of buying Negroes, provided they do nothing contrary to the Act of Navigation or the laws established in that our islands, and that the said persons may have free admission of bringing in either money or goods of the product of any of the said countries. And we do strictly require that no other duties or impositions be exacted or demanded for the blacks and goods more than the law doth appoint. And you are likewise upon the coming or departure of any ships to or from our said island to buy or carry away such Negroes, to order them to be convoyed by our frigates as far as you shall find conducting to their security and encouragement of that trade.

And it being represented unto us that the said King of Spain hath granted power to Balthazar Coymans to trade under a patent formerly granted to Nicholas Porcio for importing Negroes into the Spanish West Indies and to take possession of the estate of the said Porcio for the benefit of his creditors, and that the said Coymans

hath empowered Diego Maget to settle in our island of Jamaica in order to continue the Negro trade with our subjects in that island; you are therefore to permit the said Maget to have the free benefit of the law and to countenance him and all others concerned in the said grants from the King of Spain in their proceedings there so far forth as may consist with the encouragement of the Negro trade in that island.

Jamaica: 1685-89; (§ 936).

### 936. SLAVE TRADE TO SPANISH COLONIES (II)

And whereas it hath been represented unto us in our council <sup>23</sup> that Don Nicholas Porcio has made a contract or assiento with our good brother the Catholic King for furnishing Negro slaves to the Spanish plantations in America, and that his chief agent, St. James del Castilio, hath settled in our island of JAMAICA in order to continue the trade with our subjects of that island for ALL or the MAJOR part of the Negroes he shall want for this purpose; and it having been considered of what advantage it will be to this kingdom and the American plantations belonging to it, our will and pleasure is that you protect and countenance all ships and persons as shall be employed for buying of Negroes by virtue of his said Catholic Majesty's orders, and that you encourage the said trade in all due and fitting manner.

A—Omit from beginning through JAMAICA and substitute: "It having been represented unto us that a contract has been made with his Catholic Majesty for the furnishing Negro slaves to the Spanish plantations in America and that the persons chiefly concerned therein have settled a correspondence in our island of Barbados". Omit ALL . . . MAJOR and substitute: "a great".

Barbados: 1694-97 A.

Jamaica: (§ 935); 1692-1701.

### 937. DUTIES ON NEGROES IN JAMAICA (I)

Whereas the Court of Directors of the South Sea Company have by their petition <sup>24</sup> humbly represented unto us that by a clause in an act passed in Jamaica in November, 1716,<sup>25</sup> a duty of twenty

<sup>23</sup> See *Acts, Privy Coun., Col.*, 1680-1720, § 347.

<sup>24</sup> *Cal. State Paps., Col.*, 1716-17, § 67 i; 1717-18, § 178 ii.

<sup>25</sup> *Cal. State Paps., Col.*, 1717-18, § 272.

shillings per head is laid upon every Negro exported from that island for the term of one year, which act the petitioners are apprehensive may be renewed and the said duty continued or a higher laid, to the great prejudice of the said company in carrying on the Assiento, because their ships do touch at Jamaica for refreshment of their Negroes and for landing and recovering such as are sick, as well as buying Negroes there to the mutual advantage of our said island and of the company, and praying to be relieved therein; and whereas our Commissioners for Trade and Plantations, upon our referring the said petition unto them have by their report dated the 21st day of December last, informed us that they have heard as well the petitioners as several gentlemen belonging to Jamaica in behalf of our island, and upon due consideration of all that was offered on both sides touching this affair, are humbly of opinion that how just soever it may be that the people of Jamaica should be left at liberty to lay such duties as they shall think necessary for the support of our government there on Negroes bought in their own island, it cannot be reasonable that they should lay a tax upon Negroes landed there by the South Sea Company for refreshment, and much less on such as do only put into their harbor for wood and water, because this would be an oppression upon the South Sea Company and consequently support Jamaica at the expense of the British trade, nor can precedents of the like duty drawn from former times, whilst the Assiento was in the hands of foreigners, in any sort justify the like proceedings in the present case, the said contract being now vested in our own subjects, in whose loss or gain our whole kingdom of Great Britain is immediately concerned, and therefore humbly offer that our pleasure be signified to our governor of Jamaica not to pass any law for the future that shall lay a duty on the re-exportation of Negroes that have been brought thither only for refreshment, and much less in such as touch in the ports of Jamaica without landing there, and that our said government be likewise made acquainted with the following objections, viz:

That the act lays a higher duty upon the trade and shipping of all other our subjects than those of Jamaica.

That the inhabitants of the two parishes of St. Jago de la Vega and Kingston are to pay twelve pence per pound for the rent of every house although the rest of our island is not charged with any tax on that account.

That by the said act commissioners are appointed to receive and distribute the money arising thereby, with an allowance of  $7\frac{1}{2}$  per cent, in diminution of our royal prerogative and in prejudice of the receiver general, our patent officer; these commissioners are to give bond of eighty thousand pounds for the due execution of the said act, and notwithstanding they shall have performed all that is required by the act and by consequence the bond become void, it is not [to] be cancelled but in the presence of the president of the council and of the speaker of the assembly; and if any person shall presume to do or advise the contrary they shall forfeit double the penalty of the bond without allowing any pardon or *non vult ulterius prosequi*; besides in several other clauses of this act our prerogative of pardon or granting a *non vult ulterius prosequi* is taken away.

And whereas our said Commissioners for Trade and Plantations having by their letter of the 3 instant to our principal secretaries of state<sup>26</sup> set forth that they had received from the commander in chief of Jamaica the act afore-mentioned which was renewed in August last and the former duty of twenty shillings on Negroes continued with an addition of twenty shillings more on the Negroes belonging to the South Sea Company only, and that it is liable to the aforesaid objections, the said act was thereupon repealed by an order of our council bearing date the ninth day of this instant January.

Now we taking the premises unto our royal consideration have thought fit to approve thereof and hereby do signify our will and pleasure unto you, that you do not pass any law for the future that shall lay a duty on the re-exportation of Negroes that have been or shall be brought into our said island only for refreshment and much [less] upon such as touch in our ports of Jamaica without landing there. But the assembly of our island of Jamaica are to have liberty to lay such tax on the Negroes of our said island bought there as they shall think fit.

And our further will and pleasure is that you do take due notice of the objections before-mentioned.

And we do particularly enjoin you carefully to observe the several instructions already given you with relation to the passing of laws in that island, more especially in such cases where our royal prerogative or the trade of Great Britain may be anyways affected,<sup>27</sup>

<sup>26</sup> Cal. State Paps., Col., 1717-18, § 296.

<sup>27</sup> See above, § 227.

which precaution will be still more necessary with the passing of money bills than those of any other nature, because generally these have their duration but for one year and frequently have their effect before our royal pleasure be known concerning them.

Jamaica: Jan. 16, 1718; (§ 938).

### 938. DUTIES ON NEGROES IN JAMAICA (II)

Whereas the Court of Directors of the South Sea Company have by their petition humbly represented unto us that by several acts passed in Jamaica a duty of ten shillings per head was laid on all Negroes imported to and of twenty shillings per head upon every Negro exported from that island, whereby the said company's Negroes landed for refreshment are charged with this duty to the great prejudice of that company in carrying on the Assiento trade; it is therefore our will and pleasure that you do not pass any act for the future that shall upon any pretense whatsoever lay a duty on Negroes that shall be brought into or landed in our island of Jamaica for refreshment only; AND it is our further will and pleasure that in any case where part only of a cargo is landed, the duty shall be paid for such part only as shall be landed in order to be disposed of THERE; but the assembly of Jamaica are to have liberty to lay such tax on the Negroes of our said island bought there as they shall think fit.

Jamaica: (§ 937); Nov. 13, 1727:<sup>28</sup> (§ 940).

### 939. DUTIES ON NEGROES AND FELONS IMPORTED

Whereas acts have been passed in some of our plantations in America for laying duties on the importation and exportation of Negroes, to the great discouragement of the merchants trading

<sup>28</sup> This article, in slightly different form, was included as a part of the general instructions submitted for Hunter by the Board of Trade, July 25, 1727, but was eliminated at the instance of the Privy Council Committee, who proposed that Hunter inquire into and report upon the whole matter at his arrival in Jamaica. But upon further complaints from the South Sea Company in October an additional instruction was ordered prepared, whereupon the Board of Trade resubmitted this article in the form here given. The first draft omitted AND . . . THERE and substituted: "though part of the cargo to which the said Negroes belonged should be sold there, much less on such as touch at the ports of Jamaica without landing there." C. O. 138: 17, pp. 165-166, 238-240; C. O. 137: 17, fols. 7, 23-24; *Acts, Privy Coun., Col., 1720-45*, pp. 159-161.

thither from the coast of Africa; AND whereas acts have likewise been passed for laying duties on felons imported in direct opposition to an act of parliament passed in the fourth year of his late Majesty's reign, *for the Further Preventing Robbery, Burglary, and Other Felonies, and for the More Effectual Transportation of Felons*; <sup>29</sup> it is our pleasure that you do not give your assent to or pass any act imposing duties upon Negroes imported into the said province under your government, payable by the importer, or upon any slaves exported that have not been sold in the said province and continued there for the space of twelve MONTHS. It is our further will and pleasure that you do not give your assent to or pass any act whatsoever for imposing duties on the importation of any felons from this kingdom into the province under your government.

A—Omit from beginning through AND. Omit IT . . . MONTHS.

B—Omit AND . . . *Felons*. Omit from (second) IT to the end.

Circular: Bahamas, Barbados, Bermuda, Connecticut, Leeward Is., Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Nova Scotia, Pennsylvania, Rhode Island, South Carolina, Virginia; Dec. 10, 1731.

Bahamas: Dec. 10, 1731—Rev.

New Hampshire: Dec. 10, 1731; 1761—

Barbados: Dec. 10, 1731—1756; 1756—

Rev.

Rev. A.

Bermuda: Dec. 10, 1731; 1755—Rev. B.

New Jersey: Dec. 10, 1731; 1758—Rev.

Georgia: 1754—Rev.

New York: Dec. 10, 1731; 1753—Rev.<sup>31</sup>

Grenada: 1771—Rev.

North Carolina: Dec. 10, 1731—Rev.

Jamaica: (§ 940); 1734—Rev.<sup>30</sup>

Nova Scotia: Dec. 10, 1731—Rev.

Leeward Is: Dec. 10, 1731—Rev.

South Carolina: (§ 946); Dec. 10, 1731;

1755—Rev.

Virginia: Dec. 10, 1731—Rev; (§ 947).

#### 940. DUTIES ON NEGROES IN JAMAICA (III)

Whereas by our additional instruction to you dated the thirteenth of November, 1727,<sup>32</sup> you were strictly forbidden to give your consent to any law upon any pretense whatsoever imposing a tax upon Negroes imported into Jamaica or landed there for refreshment only; and whereas notwithstanding this instruction you did in February last give your consent to an act *for Raising Several Sums of*

<sup>29</sup> 4 Geo. I, c. 11.

<sup>30</sup> See also below, §§ 941—944.

<sup>31</sup> See also above, § 236.

<sup>32</sup> See above, § 938.

*Money and Applying the Same to Several Uses,*<sup>88</sup> by which a duty of fifteen shillings per head is laid upon all Negroes imported into Jamaica and another of thirty shillings for every Negro that shall be exported from thence or put on board for exportation, excepting such slaves only as have paid the import duty and have not been sold in the island since their importation; and whereas another duty of one hundred pounds per head is imposed by the said act on all convicts that shall be imported into that island, in direct opposition to an act of parliament passed in the fourth year of our late royal father's reign *for the Further Preventing Robbery, Burglary, and Other Felonies and for the More Effectual Transportation of Felons,*<sup>84</sup> which extends to all our plantations in general; we cannot but express our great dissatisfaction at these your proceedings and to command you upon pain of our highest displeasure<sup>85</sup> to adhere more strictly to your instructions for the future; and we do absolutely forbid you to give your assent to any law imposing duties upon slaves imported into Jamaica payable by the importer, or upon any slaves exported that have not been sold in the island and continued there for the space of twelve months; it is our further will and pleasure that you do not give your assent to any act whatsoever for imposing duties on the importation of any felons from this kingdom into Jamaica.

Jamaica: (§ 938); Dec. 10, 1731; (§§ 939, 941).

#### 941. DUTIES ON NEGROES IN JAMAICA (IV)

A memorial having been presented unto his Majesty by you, his Majesty's GOVERNOR<sup>86</sup> praying that in regard to THE present distressed circumstances of that island the legislature thereof MAY be restored to the liberty of laying a small duty on the import and export of Negroes till they SHALL be in a condition by other methods to raise the necessary supplies for the exigencies of that government and the support of his Majesty's forces ordered thither for the protection of the said island; WE HAVE TAKEN the same into our royal

<sup>88</sup> See *Acts, Privy Coun., Col., 1720-45*, pp. 161-162.

<sup>84</sup> 4 Geo. I. c. 11.

<sup>85</sup> At this point in the entry of this instruction in C. O. 5: 195, pp. 247-248, the words "and of being recalled from that our government" are added but struck through.

<sup>86</sup> See *Acts Privy Coun., Col., 1720-45*, pp. 165-167.

consideration together with the report of the Lords of the Committee of his Majesty's Privy Council and of his Majesty's Commissioners for Trade and Plantations thereupon, and HAVE THOUGHT fit to declare that in regard to the PRESENT circumstances of the said islands, the instructions given to Robert Hunter, Esquire, the late governor of Jamaica, on the 10th of December, 1731,<sup>37</sup> and now given to you,<sup>38</sup> directing you not to give your assent to any law imposing duties upon slaves imported into Jamaica payable by the importer or upon any slaves exported that have not been sold in the said island and continued there for the space of twelve months, be dispensed with; and we do hereby in his Majesty's name empower you during the present EXIGENCIES of the island to give YOUR assent to an act for laying a reasonable duty upon Negroes purchased in the said island to be paid by the purchaser, PROVIDED the said duty be laid in such manner that there shall not be more paid for the Negroes which shall be purchased by the South Sea Company than for those which shall be purchased by the inhabitants of the said island.

A—Omit you . . . GOVERNOR and substitute: "Mr. Cunningham, heretofore governor of his Majesty's island of Jamaica". After THE add: "then". Omit MAY and substitute: "might". Omit SHALL and substitute: "should". Omit HAVE TAKEN and substitute: "did take". Omit HAVE THOUGHT and substitute: "did think". Omit PRESENT and substitute: "then". Omit we . . . EXIGENCIES and substitute: "we did empower him during the exigencies". Omit YOUR and substitute "his".

B—Omit from PROVIDED to the end.

Jamaica: (§§ 937–940); July 10, 1735–1738; 1738–52 A; 1752–67 A, B; (§§ 942–944).

#### 942. DUTIES ON NEGROES IN JAMAICA (V)

And it having been represented to us that our island of Jamaica and our subjects inhabiting the same do yet lie under the same distressed circumstances, we are graciously pleased to dispense with the said instruction<sup>39</sup> and to permit and empower you during the present exigencies of that our island to give your assent to an act for laying a reasonable duty upon Negroes purchased in our said island payable by the purchaser, PROVIDED there shall be no more

<sup>37</sup> See above, § 940.

<sup>38</sup> See above, § 939.

<sup>39</sup> See above, § 939.

paid for Negroes purchased by the South Sea Company than for those purchased by the inhabitants of our said island.

A—Omit from PROVIDED to the end.

Jamaica: (§§ 937–941); 1738–52; 1752–67 A; (§ 943).

#### 943. DUTIES ON NEGROES IN JAMAICA (VI)

Whereas it hath been represented unto us that the island of Jamaica and our subjects inhabiting the same be under such distressed circumstances that unless the legislature of our said island be at liberty to lay a small duty on the import and export of Negroes, they are not in a condition to raise the necessary supplies for the exigencies of that government and the support of our forces ordered thither for the protection of the said island; we are therefore pleased to dispense with so much of the preceding article of our instructions<sup>40</sup> as respects laying duties on Negroes and to permit and empower you during the present exigencies of the island to give your assent to an act for laying a reasonable duty upon Negroes purchased in the said island to be paid by the purchaser.

Jamaica: (§§ 937–942); 1767–1775; (§ 944).

#### 944. DUTIES ON NEGROES IN JAMAICA (VII)

Whereas notwithstanding the instructions which have been repeatedly given by us and by our royal predecessors to the governors for the time being of our island of Jamaica forbidding them to assent to or pass acts for imposing duties on Negroes imported into that island payable by the importer, such acts have nevertheless been from time to time enacted and passed into laws in open violation of the said instructions; and whereas it hath been represented unto us<sup>41</sup> that the duties imposed by the said acts upon Negro slaves imported have of late been considerably augmented to the injury and oppression of the merchants of this kingdom and the obstruction of its commerce; it is our express will and pleasure that you do not upon any pretense whatever and upon pain of being removed from your government give your assent to any act or

<sup>40</sup> See above, § 939.

<sup>41</sup> See *Acts, Privy Coun., Col.*, 1766–83, § 313.

acts by which the duties and impositions upon slaves imported into the island of Jamaica, as the said duties stood before the thirteenth day of February, 1774, shall be in any respect augmented or increased or any alteration made in the proportion of such duties, which by the provisions of such laws was made payable by the importer of such slaves.

Jamaica: (§§ 937-943); Feb. 27, 1775—Rev.

#### 945. RECEPTION OF CONVICTS SENT TO LEEWARD ISLANDS

And whereas for the better security of our island of St. Christopher we have given directions that three hundred malefactors be transported thither, and that the fees due for them be satisfied by the sheriffs of London for the time being; our will and pleasure is that you do not only take care by the most effectual means to prevent the discharge or escape of any of the said malefactors from the said island during the time prescribed by law, but that you also propose to the assemblies of the respective islands under your government that all malefactors which shall at any time be transported thither may be obliged to service for the space of eight years at the least.

Leeward Is: May 7, 1683.

#### 946. NEGRO DUTIES TO BE PAID BY PURCHASER NOT IMPORTER

Whereas several merchants of Great Britain trading to South Carolina have complained that by certain acts of assembly now in force in the said province, duties are imposed upon Negroes imported there and made payable by the importers, to the discouragements of the said trade, and have desired the said duties may for the future be made payable by the purchasers and not by the importer, submitting nevertheless that the importer or his factor shall be security to the public for the payment of the said duty in case of the purchaser's failure; it is our will and pleasure that you endeavor to get a law passed for explaining and altering the laws for collecting of the said duties on Negroes agreeable to the desire of the said merchants.

South Carolina: 1730-38; (§ 939).

#### 947. NO ADDITIONAL DUTIES ON SLAVES IN VIRGINIA

Whereas at a general assembly begun and held in our city of Williamsburg in our colony and dominion of Virginia on the seventh day of November in the tenth year of our reign, two laws were framed and enacted by our governor, council, and House of Burgesses of our said colony and dominion of Virginia, entitled *An Act for Laying an Additional Duty upon Slaves Imported into This Colony,*<sup>42</sup> and the other *An Act for the Better Support of the Contingent Charges of Government,*<sup>43</sup> by which said laws additional duties, amounting to fifteen per cent were imposed upon every purchase of slaves imported or brought into that colony over and above a duty of ten per cent payable by former laws then in force; and whereas it hath been represented to us<sup>44</sup> that so considerable an increase upon the duties of slaves imported into our colony of Virginia will have the effect to prejudice and obstruct as well the commerce of this kingdom as the cultivation and improvement of the said colony; whereupon we have thought fit to disallow the first mentioned of the laws, leaving the other, which is of short duration, to expire by its own limitation. It is therefore our will and pleasure that you do not upon pain of our highest displeasure give your assent for the future, without our royal permission first obtained, to any law or laws by which the additional duty of five per cent upon slaves imported, imposed by the last mentioned law, shall be further continued or to any laws whatever by which the duties of ten per cent upon slaves imported into our said colony, payable by laws passed antecedent to the seventh day of November, 1769, shall upon any pretense be increased or by which the importation of slaves shall be in any respect prohibited or obstructed.

Virginia: (§ 939); Dec. 10, 1770.

#### 948. ROYAL MINES IN JAMAICA (I)

Whereas it has been represented to us that it is generally apprehended there are royal mines of gold and silver in Jamaica which on proper encouragement might be won and wrought to the great benefit and advantage of the crown and the public as well as of

<sup>42</sup> Hening, *Statutes at Large*, VIII, 337-339.

<sup>43</sup> *Ibid.*, pp. 342-348.

<sup>44</sup> See *Acts, Privy Coun., Col.*, 1766-83, § 171.

those who shall undertake to discover them, but which it is not to be expected any will do unless they can have a certain permanent interest in the mines in case their inquiry after them (which must be expensive) should prove successful;<sup>45</sup> and whereas, in order to discover the said royal mines, our royal father of blessed memory, did in the sixth year of his reign by letters patents give and grant unto Charles Long and others, their executors, administrators, and assigns, all mines of gold and silver and royal mines whatsoever, with full power to do any matter that should be necessary for the working the said mines, subject nevertheless to certain reservations, terms, and conditions therein specified, for the space of thirty-one years from the day of the date thereof; but forasmuch as the said patentees did not comply with the terms of the said letters patents, by which the said grant of our royal father unto them did become void and the right and property of the said royal mines is thereby vested in us; now we taking the premises into our royal consideration and likewise being desirous of giving all possible encouragement to a discovery of so beneficial a nature, and moreover reposing especial trust and confidence in you, our captain general and commander in chief in and over our island of Jamaica, do BY THIS our additional instruction to you under our signet and sign manual, authorize and empower you to make grants for and during the term of fifty YEARS, of royal mines in our said island to any person or persons that shall apply to you for such grants, with full license liberty, and authority to them and every of them, their, and every of their respective executors, administrators, and assigns, and such agents, workmen, and such other person and persons as they and every of them shall from time to time nominate and appoint to search, dig for, and open the said mines or any of them, and to make mouths, drains, levels, adits, and all other conveyance and conveyances, and to erect any works or to do all and every other matter or thing as shall be necessary for the working the said mines or for the getting the gold or silver there out; to have and to hold the said mines, powers, and authorities for and during the term aforesaid, yielding and paying therefor unto us, our heirs, and successors, one full fifth part of the whole in five parts to be divided, of the gold and silver and precious stones or the value or proceed of the said fifth part which shall be found in the said MINES after the charges upon such gold and silver and precious

<sup>45</sup> See *Acts, Privy Coun., Col., 1720-45*, § 415.

stones shall be first deducted, from time to time yearly into the Receipt of the Exchequer of us, our heirs, and successors in England, and keeping two or more distinct and fair accounts in writing of whatsoever shall be produced therefrom and of all charges thereupon and of all neat and clear profits arising thereby, from time to time to be inspected and examined by such person or persons as are or shall be appointed to inspect our revenue in Jamaica, and by such other person or persons as the Commissioners of our Treasury now being or our High Treasurer or our Commissioners of our Treasury in Great Britain for the time being shall appoint, and rendering their accounts of the premises upon oath whensover the said Commissioners of our Treasury or our High Treasurer or Commissioners of our Treasury for the time being shall require the same, and giving unto you such security for the due performance of their covenants as to you shall seem reasonable.

You are to insert in every grant a condition that in case the said grantees, their executors, administrators, or assigns, or their agents or workmen shall not open or work some mine or mines within five years from the date of their respective grants and produce some profit to us, our heirs, or successors, by or out of the same according to the reservations aforesaid, then the said grants to cease, determine and be void to all intents and purposes.

You are hereby especially instructed not to make a grant of all the royal mines in Jamaica to any one person or any set of persons united in one body, such monopolies being highly disadvantageous and tending to frustrate the intent of such grants. And if application shall be made to you for a grant of royal mines lying in the lands which are the property of any private person, such private person, his or her parent, guardian, agent, or representative, shall have proper notice thereof and liberty to take out such grant for his or her own benefit, subject to the same conditions with other grantees of royal mines. But in case the proprietors of the said lands shall neglect or refuse to take out such grant within the space of twelve calendar months after such notice given, then the grant may be made by you to the persons applying for the same according to the true intent and meaning of this our instruction.

A—Omit BY . . . YEARS and substitute: "hereby authorize and empower you to make grants." Omit TO . . . MINES and substitute: "as largely as is in our power to grant such license and authority, to have and to hold the said mines, powers, and authorities, yielding

and paying therefor unto us, our heirs, and successors one fifteenth part of the gross ore that shall be gotten, gained, or dug out of the said mine or mines, or one twentieth part of the gold and silver or precious stones which may be extracted." Omit the last two paragraphs, the subject being covered by § 950.

Jamaica: May 26, 1738-1746; (§§ 949, 950); 1752—Rev. A.

#### 949. ROYAL MINES IN JAMAICA (II)

Whereas we did by our instructions to you under our signet and sign manual bearing date the 26th day of May in the 11th year of our reign <sup>46</sup> authorize and empower you to make grants of royal mines in our island of Jamaica to any person or persons that should apply to you for such grants, with full license, liberty, and authority to them and every of them, their, and every of their respective executors, administrators, and assigns, and such agents, workmen, and such other person and persons as they and every of them should from time to time nominate and appoint, to search, dig for, and open the said mines or any of them, and to make mouths, drains, levels, adits, and all other conveyance and conveyances, and to erect any works or to do any other matter or thing necessary for the working the said mines, or for the getting the gold or silver thereout, as largely as was in our power to grant such license and authority, to have and to hold the said mines, powers, and authorities, yielding and paying therefor unto us, our heirs, and successors, one full fifth part (the whole in five parts to be divided) of the gold and silver and precious stones or the value or proceed of the said fifth part, which should be found in the said mines after the charges upon such gold and silver and precious stones should be first deducted, from time to time yearly into the Receipt of the Exchequer of us, our heirs, and successors, in England, and keeping two or more distinct and fair accounts in writing of whatsoever should be produced therefrom and of all charges thereupon and of all neat and clear profits arising thereby, from time to time to be inspected and examined by such person or persons as were or should be appointed to inspect our revenue in Jamaica, and by such other person or persons as the Commissioners of our Treasury then being, or our High Treasurer, or our Commissioners of our Treasury in Great Britain for the time being should appoint, and rendering their ac-

<sup>46</sup> See above, § 948.

counts of the premises upon oath whensover the said Commissioners of our Treasury then being, or our High Treasurer, or Commissioners of our Treasury for the time being should require the same, and giving unto you such security for the due performance of their covenants as to you should seem reasonable, taking care to insert in every grant a condition providing that in case the said grantees, their executors, administrators, or assigns, or their agents or workmen, should not open or work some mine or mines within five years from the date of their respective grants and produce some profit to us, our heirs, or successors, by or out of the same according to the reservations aforesaid, the said grants should cease determine and be void to all intents and purposes.

And whereas you was thereby further directed not to make a grant of all the royal mines in Jamaica to any one person or to any set of persons united in one body, such monopolies being highly disadvantageous and tending to frustrate the intent of such grants, and that if application should be made to you for a grant of royal mines lying in the lands which were the property of any private person, such private person, his or her parent, guardian, agent, or representative, should have proper notice thereof and liberty to take out such grants for his or her own benefit, subject to the same conditions with other grantees of royal mines; but in case the proprietors of the said lands should neglect or refuse to take out such grant within the space of twelve calendar months after such notice give, then the grant might be made by you to persons applying for the same according to the true intent and meaning of our said instructions, as by reference thereunto had may more fully and at large appear.

And whereas, since the date of our said instructions, a petition hath been presented unto us by Mathias Philp and William Perrin, Esquires, praying for a grant of royal mines in the parishes of St. Andrews Liguania and St. Georges within our said island of Jamaica, in which petition is set forth the great hazard and expense of so precarious an undertaking, and the difficulties the petitioners will lie under from being obliged to comply with the terms of our aforesaid instruction, particularly as to the quantum of the reservation therein mentioned;<sup>47</sup> now we, having duly weighed and considered the said petition, and being inclined to give all proper encouragement to the industry of our loving subjects in any under-

<sup>47</sup> *Acts, Privy Coun., Col., 1720-45, § 560.*

taking that may turn to their profit and the advantage of the public, and moreover, reposing especial trust and confidence in you our captain general and commander in chief in and over our said island of Jamaica, do by this our additional instruction to you under our signet and sign manual, authorize and empower you to make a grant or grants to the said petitioners of such mine or mines of gold and silver as they shall discover within the said two parishes of St. Andrew Liguania and St. Georges in our said island, for the term of ninety-nine years, and as a further encouragement to so beneficial a discovery, we have thought proper to alter that part of our former instruction to you whereby all grantees of royal mines in our said island are obliged to yield and pay unto us, our heirs, and successors, one fifth part of the gross proceedings of the said mines, and in lieu thereof, to accept one fifteenth part of the gross ore that shall be gotten, gained, or dug out of any mine or mines discovered by the petitioners, or one twentieth part of the gold or silver which may be abstracted.

And whereas it is already provided by our said former instruction to you that in case the grantees of any mines or their agents should not open or work the same and produce some profit to us, our heirs, and successors, therefrom within five years from the date of their respective grants, the said grants should cease, determine, and be void, to all intents and purposes; it is our further will and pleasure that if the said petitioners, their executors, administrators, or assigns, or their agents or workmen, shall cease to work and produce profit to us, our heirs, and successors out of any particular mine by them opened within the limits by you granted to them for any five consecutive years during the continuance of the term for which the same were granted to them, such grant as to that particular mine, shall likewise become null and void to all intents and purposes.

And in order more effectually to guard against any monopoly or monopolies in the granting of royal mines to any persons within our said island, as already mentioned in our former instruction to you; it is our further will and pleasure, that you do not upon any pretense whatsoever make any exclusive grant or grants to the said petitioners of all and every the mine or mines of gold and silver which may be within the said two parishes of St. Andrew Liguania and St. Georges in our said island, but only of such mine or mines of gold or silver within the said two parishes as shall be found,

gained, dug, or opened by the said petitioners, their workmen, or agents, provided always that no new mine or mines be dug or opened by any other person or persons within 500 yards horizontal measure every way from the center of the middle drift, which the said petitioners shall make in any mine-work discovered and opened by them as aforesaid.

And whereas disputes may arise upon that part of our said former instructions to you wherein provision is made for the security of private property and by which the owners of any lands were to have a grant of the mines contained within their respective estates with a preference to any other person, whereby great delays might be given to an undertaking of such public utility, we think it for our service to revoke that part of our former instructions and instead thereof to direct and require you, and you are hereby accordingly directed and required to insert a clause in such grant or grants so by you to be made, as aforesaid, whereby the grantees, their executors, administrators, and assigns, in case they shall think fit to search for or open any mine or mines within the lands which may be the property of any private person or persons, shall be obliged to apprise and acquaint the proprietor or proprietors of such lands (and if such proprietor be an infant, feme covert, or absentee, the guardian of such infant, or husband of such feme covert, or attorney of such absentee) with such their intentions three months before they begin to search for or work upon the said mine or mines, and to let such proprietor or proprietors into a share, not exceeding one fifteenth part of the profit and loss arising from the working the said mine or mines, in case such proprietor or proprietors be willing to accept the same, and to stand to their risk and proportion as well of the loss as of the profit that may arise therefrom; but in case the said proprietor or proprietors shall not within the space of twelve months from the time the same shall be so offered to him, her, or them, declare their acceptance thereof and give good and sufficient security for their performance of the same (such security to be determined by our attorney general in our said island for the time being), that then and from thenceforth the said petitioners shall be at liberty to find, gain, dig, open, and work the said mine or mines of gold and silver for and during the term to be contained in their said grants for their own sole use and benefit; provided always, and you are hereby directed to take especial care in the making of such grant or grants to the petitioners as aforesaid

or to any other persons that shall apply to you for grants of the like nature, that due regard be had that the said grants be strictly conformable to our said former instruction to you bearing date the 26th day of May in the 11th year of our reign, in all cases, matters, and things, wherein the same is not altered, varied, or enlarged by this our present instruction to you.

Jamaica: Jan. 10, 1746: (§ 950).

### 950. ROYAL MINES IN JAMAICA (III)

[A continuation of first paragraph of § 948:] . . . provided that in case the said grantees, their executors, administrators, or assigns, or their agents or workmen shall cease to work and produce profit to us, our heirs, and successors, out of any particular mine by them opened within the limits by you granted to them for any five successive years during the continuation of the term for which the same were granted to them, such grant as to that particular mine shall become null and void to all intents and purposes. And in order more effectually to guard against any monopoly or monopolies in the granting of royal mines to any person within the said island, you are hereby especially instructed not to make any exclusive grant or grants of all and every the mine or mines of gold and silver which may be within the said island to any one person or any set of persons united in one body, but only of such mine or mines within the said island as shall be found, gained, dug, or opened by the said grantees, their workmen, or agents; provided always that no new mine or mines be dug or opened by any other person or persons within five hundred yards horizontal measure, every way from the center of the middle drift which the said grantees shall make in any mine-work discovered and opened by them as aforesaid. And you are hereby further directed and required to insert a clause in all such grant or grants whereby the grantees, their executors, administrators, and assigns, in case they shall think fit to search for or open any mine or mines within the lands which may be the property of any private person or persons, shall be obliged to apprise and acquaint the proprietor or proprietors of such lands, and if such proprietor be an infant or feme covert or absentee, the guardian of such infant, or husband of such feme covert, or attorney of such absentee, with such their intentions three months before they begin to search for or work upon the said mine or mines; and

to let such proprietor or proprietors into a share not exceeding one fifteenth part of the profits or loss arising from the working the said mine or mines, in case such proprietor or proprietors be willing to accept the same, and to stand to their risk and proportion as well of the loss as the profit which may arise therefrom; but in case the said proprietor or proprietors shall not within the space of twelve months from the time the same shall be offered to him, her, or them, declare their acceptance thereof and give good security for their performance of the same (such security to be determined by our attorney general in our said island for the time being) that, then and from thenceforth, the said grantees shall be at liberty to find, dig, open, and work the said mine or mines of gold and silver for and during the term to be contained in their said grants for their own sole use and benefit.

Jamaica: (§§ 948, 949); 1752—Rev.

### 951. LEASE OF A SILVER MINE IN NEW YORK

Whereas a petition hath been presented unto us by Frederick Philipse of the manor of Philipseburgh in the county of Westchester in our province of New York, Esquire,<sup>48</sup> praying among other things that we would be graciously pleased to grant to him a lease under our great seal of Great Britain of a royal mine of silver already discovered by the petitioner within the said manor, and of all other the royal mines of gold and silver discovered or opened or which may hereafter be discovered or opened within the said manor by the petitioner or his assigns, to hold to the petitioner, his executors, administrators, and assigns for the term of ninety-nine years under the terms and conditions in the said petition mentioned; now we, having duly weighed and considered the said petition and being inclined to give all proper encouragement to the industry of our loving subjects in any undertaking that may turn to their profit and the advantage of the public, and moreover reposing especial trust and confidence in our captain general and commander in chief [in] and over our said province of New York, do by this our additional instruction to you under our signet and sign manual authorize and empower you to pass letters patent under the seal of that our

<sup>48</sup> Philipse's petition of 1764 is summarized in *Acts, Privy Coun., Col.*, 1745–66, p. 550 and *ibid.*, *Unbound Paps.*, § 559; the Board of Trade's report thereupon of Feb. 22, 1771, in *ibid.*, 1766–83, § 186.

province containing a grant or grants to the said petitioner of all royal mines of gold and silver discovered or opened or which may hereafter be discovered or opened within the manor of Philipseburgh in the county of Westchester in our said province of New York by the petitioner, his agents, or workmen, to hold to the said petitioner, his executors, administrators, and assigns for the term of ninety-nine years under the following conditions and restrictions, that is to say:

First. That there be reserved to us, our heirs, and successors one fifteenth dish of the gross ore which shall be gotten, gained, or dug out of any mine or mines discovered by the petitioner, or one twentieth part of the gold or silver which shall be extracted therefrom, to be accounted for upon oath by the petitioner or his assigns to the receiver general of our revenue of the province of New York, and paid to the said receiver, who shall have liberty to keep one or more clerks at any of the mines worked by the petitioner or his assigns to inspect the same and take account of the province [produce?] thereof.

Secondly. That if any assignment whatever shall be made by the petitioner of the whole or any part or share of the said mines without a proportionable property in the soil being conveyed together with such assignment, or if the petitioner, his executors, administrators, or assigns shall not open or work some mine and produce therefrom some profit to us, our heirs, and successors within five years from the date of the letters patent so to be granted as aforesaid, or shall cease to work and produce such profit out of any particular mine opened within the said manor of Philipseburgh for any five consecutive years during the continuance of the said lease; the said lease so to be granted shall in all or any of such cases become null and void to all intents and purposes.

Thirdly. That in case the soil under which the petitioner, his executors, administrators, or assigns have already found or shall search for, find, gain, dig, or open any mine or mines, either gold or silver, within the said manor, shall belong to or be the private property of any person or persons whatsoever, such compensation or allowance shall be made for the damage such person or persons may thereby sustain as shall be assessed and thought reasonable by a jury to be summoned and sworn for that purpose by the sheriff of the county of Westchester at the county court; and their verdict is to be returned into and filed in the county court office; the charges

whereof and of all proceedings for ascertaining such damages aforesaid shall be borne by the petitioner, his executors, administrators, and assigns.

New York: May 30, 1771.

### 952. RESERVATION OF COAL AND METAL MINES IN NOVA SCOTIA

And whereas it hath been represented to us that several parts of our government of Nova Scotia have been found to abound with coals, it is our will and pleasure that in all grants of land to be made by you a clause be inserted reserving to us, our heirs, and successors all coals and also all mines of gold, silver, copper, and lead, which shall be discovered upon such lands.

Nova Scotia: 1764-73.

### 953. FOSTER IRON WORKS AT ST. MAURICE

And whereas it appears from the representations of our governor of the district of Trois Rivières <sup>49</sup> that the iron works at St. Maurice in that district are of great consequence to our service; it is therefore our further will and pleasure that no part of the lands upon which the said iron works were carried on, or from which the ore used in such works was procured, or which shall appear to be necessary and convenient for that establishment, either in respect to a free passage to the River St. Lawrence or for producing a necessary supply of wood, corn, and hay, or for pasture for cattle, be granted to any private person whatever; and also that as large a district of land as conveniently may be, adjacent to and lying around the said iron works, over and above what may be necessary for the above purposes, be reserved for our use to be disposed of in such manner as we shall hereafter direct and appoint.

Quebec: 1763-Rev.

### 954. GOVERNORS NOT TO CLAIM WHALES AS ROYAL FISH

Whereas for some years past the governors of some of our plantations have seized and appropriated to their own use the produce

<sup>49</sup> See the report of Colonel Ralph Burton, lieutenant governor of Trois Rivières, in 1762, Shortt and Doughty, *Docs. Relating to Const. Hist. of Canada*, I, 61-65, especially pp. 64-65.

of whales of several kinds taken upon those coasts, upon pretense that whales are royal fishes, which tends greatly to discourage this branch of fishery in our plantations and prevent persons from settling there; it is therefore our will and pleasure that you do not pretend to any such claims nor give any manner of discouragement to the fishery of our subjects upon the coast of the province under your government, but on the contrary that you give all possible encouragement thereto.

Circular: Bahamas, Barbados, Bermuda, Jamaica, New Jersey, New York, Nova Scotia, Virginia: March 6, 1730.<sup>50</sup>

Georgia: 1754—Rev.

New York: March 6, 1730—Rev.

Massachusetts: 1730—Rev.

North Carolina: 1730—Rev.

New Hampshire: 1730—Rev.

Nova Scotia: March 6, 1730; 1756—Rev.

New Jersey: March 6, 1730—Rev.

South Carolina: 1730—Rev.

### 955. PROTECTION OF NEWFOUNDLAND FISHERY

You are with utmost application to exert yourself in everything which may encourage and promote so beneficial a trade as the fishing at Newfoundland may be to our subjects when carried on as it ought to be, and for your particular direction herein we have thought fit and do hereby require you to observe and pursue closely these our following instructions:

1st. You are not to encourage any of the French who are still in Newfoundland to stay there.

2nd. You are to take care that none of the waste grounds, beaches, or stages in Newfoundland be disposed of till our further order, and that none of the inhabitants upon pretense of purchases from the French do hinder the fishing ships from using the proper rooms necessary for the curing of their fish, the direction of the act of parliament of the tenth and eleventh of King William the Third, entitled *An Act to Encourage the Trade to Newfoundland*,<sup>51</sup> being

<sup>50</sup> A note following the entry of this circular instruction in C. O. 324: 11, p. 162 reads: "N.B. Drafts of the foregoing additional instructions were prepared for all the king's governments except Bermuda and the proprietary governments; but were incorporated in the general instructions preparing for the Leeward Islands, Massachusetts Bay and New Hampshire, South and North Carolina". The instruction was not sent, in the end, to the governor of the Leeward Islands. Lord Forbes, whose commission was drafted in December, 1729, died before going out, and no set of general instructions was completed until those prepared for William Mathew in 1733, which omitted the above article. For the effect of this instruction upon the salary of the Bermuda governor see § 354.

<sup>51</sup> 10 Wm. III, c. 14.

the sole rule for regulating the disposal of such rooms to the said fishing ships.

3rd. In all matters in which you have not particular directions from us you are to consider Placentia as subject to the regulations in the said act and are to govern yourself thereby; and in pursuance of this act you are to take notice that every fishing ship from Great Britain or the fishermen thereof that shall first enter any harbor or creek in Newfoundland shall be admiral of the said harbor for that season; that the master of the ship next entering shall be vice admiral; and the master of the third ship rear admiral; that if any persons are possessed of several places in several creeks or harbors, they shall make their elections which they will abide in within forty-eight hours after any demand of any after-comer. And in case of any differences touching the said matters or any other differences arising between the masters of fishing ships and the inhabitants there about fishing rooms, stages, or flakes, such differences and disputes shall be determined by the fishing admirals in their respective harbors, an appeal being reserved to the commanders of our men-of-war who shall be appointed convoys for Newfoundland.

4th. We do strictly prohibit and discharge you or any of the officers or soldiers of the garrison under your command to have anything to do with the fishery or trade and you are to take care that the beaches and stages be left to the public use and disposed of as the foresaid act directs.

5th. As you are to consider the French who have continued in Newfoundland as under the same regulation with our other subjects, you are therefore to take care that none of the French inhabitants have liberty to trade with France, Canada, or any other French settlement, but be obliged to trade with our subjects of Great Britain only.

Placentia: <sup>52</sup> May 18, 1715.

#### 956. PLACENTIA GARRISON NOT TO INTERFERE WITH FISHERY

You shall strictly enjoin both the present and future garrison of Placentia and all his Majesty's officers and soldiers and other persons

<sup>52</sup> At this time the town and garrison of Placentia in Newfoundland were nominally in the jurisdiction of the military governor of Nova Scotia. For this reason and because the fourth item in these instructions anticipates § 956 below, these

whatsoever belonging thereto not to concern themselves in the fishery there, not to interrupt the fishermen in the curing of their fish, not to take up for themselves any beaches, stages, or cook-rooms upon any pretense whatsoever upon pain of his Majesty's highest displeasure.

Nova Scotia: (§ 955); 1719-29.

### 957. PROTECTION OF NOVA SCOTIA FISHERIES

It being his Majesty's intention to give all possible encouragement to the trade of all his subjects, you are to use your best endeavors that the fishery on the coast of Nova Scotia be encouraged and protected; and in order thereunto you shall not allow any settlements to be made on the coast but what shall be at least two hundred yards distance from the sea or harbor, that there may be sufficient room left for beaches, flakes, stages, cook-rooms, and other necessary conveniences between the said settlement and the sea for any of his Majesty's subjects that shall come to catch and cure fish there, who are not to be impeded or disturbed in their curing their fish upon any pretense of grants or settlements upon the coast; nor shall any of the planters and inhabitants demand any sum or sums of money or other acknowledgment from the fishermen for the liberty of curing upon the coast, unless they provide stages and cook-rooms with a shore man to each stage and the usual necessaries for such fishing ships as is done at Marblehead in New England; and in such case they shall ask no more than twelve pence New England money for every quintal.

Nova Scotia: 1719-49; (§§ 890, 958).

### 958. RESERVE WATERFRONT LAND FOR COMMERCIAL PURPOSES

And to render the commerce of our subjects in Nova Scotia more commodious and practicable, you are to take especial care in all such grants of land as you shall make pursuant to our commission and

instructions to the lieutenant governor of Placentia are included here although the instructions to the commodore-governors of Newfoundland beginning with 1729 are omitted from the present volumes.

these instructions, that a continued space of land on the SEACOAST AND banks of all creeks and rivers OF such a breadth as you shall find necessary for building and repairing vessels, curing of fish, loading and unloading, be reserved and set apart for the above-mentioned and all other public uses whatsoever.

A—Omit SEACOAST AND. Omit from OF to the end and substitute: "of the breadth of one hundred yards be reserved free and common to all passengers and public uses whatsoever".

Nova Scotia: 1719-49 A; (§ 957); 1749-64.

### 959. FISHERIES ON THE LABRADOR COAST

The fisheries on the coast of Labrador and the islands adjacent thereto are objects of the greatest importance, not only on account of the commodities they produce, but also as nurseries of seamen, upon whom the strength and security of our kingdoms depend. Justice and equity demand that the real and actual property and possession of the Canadian subjects on that coast should be preserved entirely, and that they should not be molested or hindered in the exercise of any sedentary fisheries they may have established there. Their claims, however, extend to but a small district of the coast, on the greatest part of which district a cod fishery is stated to be impracticable. On all such parts of the coast where there are no Canadian possessions, and more especially where a valuable cod fishery may be carried on, it will be your duty to make the interests of our British subjects going out to fish there in ships fitted out from Great Britain the first object of your care, and as far as circumstances will admit, to establish on that coast the regulations in favor of British fishing ships which have been so wisely adopted by the act of parliament passed in the reign of King William the Third for the *Encouragement of the Newfoundland Fishery*; <sup>58</sup> and you are on no account to allow any possession to be taken or sedentary fisheries to be established upon any parts of the coast, that are not already private property, by any persons whatever, except only such as shall produce annually a certificate of their having fitted out from some port in Great Britain.

Quebec: 1775—Rev.

<sup>58</sup> 10 Wm. III, c. 14.

### 960. REGULATION OF PELTRY TRADE IN QUEBEC

It is our royal intention that the peltry trade of the interior country should be free and open to all our subjects, inhabitants of any of our colonies, who shall pursuant to what was directed by our royal proclamation of 1763,<sup>54</sup> obtain licenses from the governors of any of our said colonies for that purpose under penalties to observe such regulations as shall be made by our legislature of Quebec for that purpose. These regulations therefore, when established, must be made public throughout all our American possessions, and they must have for their object the giving every possible facility to that trade which the nature of it will admit, and as may consist with fair and just dealing towards the savages with whom it is carried on. The fixing stated times and places for carrying on the trade, and adjusting modes of settling tariffs of the prices of goods and furs, and above all the restraining the sale of spirituous liquors to the Indians will be the most probable and effectual means of answering the ends proposed. These and a variety of other regulations, incident to the nature and purpose of the peltry trade in the interior country are fully stated in a plan proposed by our Commissioners for Trade and Plantations in 1764, a copy of which is hereunto annexed,<sup>55</sup> and which will serve as a guide in a variety of cases in which it may be necessary to make provision by law for that important branch of the American commerce.

Quebec: 1775—Rev.

### 961. ENCOURAGE VARIOUS ACTIVITIES IN JAMAICA

You shall also encourage the improvement of cocoa walks, the plantations of sugars and indigo, AND the planting and right way of curing VANILLAS, and the repairing of the houses in St. Jago.

A—Omit AND . . . VANILLAS.

Jamaica: 1670–78; 1678–81 A.

<sup>54</sup> See C. S. Brigham, *British Royal Proclamations Relating to America*, pp. 212–218; Shortt and Doughty, *Docs. Relating to Const. Hist. of Canada*, I, 119–123.

<sup>55</sup> See Shortt and Doughty, *Docs. Relating to Const. Hist. of Canada*, I, 433–437.

**962. PRESERVATION OF WILD CATTLE, ETC., IN  
JAMAICA**

And that the wild cattle, horses, hogs, and sheep in our said island may be preserved to the best advantage of the colony, you shall prohibit or license the hunters there, as by the advice of the council shall be judged most requisite.

A—Omit from by to the end and substitute: "you shall judge most requisite".

Jamaica: 1670-78; 1678-81 A.

**963. CULTIVATION OF HEMP AND FLAX: NOVA SCOTIA  
AND QUEBEC**

And whereas it hath been represented to us that many parts of the province under your government are particularly adapted to the growth and culture of hemp and flax, it is therefore our will and pleasure that in all surveys of land for settlement the surveyor be directed to report whether there is any or what quantity of lands contained within such survey fit for the production of hemp and flax; and you are to take particular care to insert a clause in every grant of land where any part thereof is fit for such production obliging the grantee annually to sow a proportionable part of his grant with hemp and flax seed.

Nova Scotia: 1763-73; (§ 764).

Quebec: 1763-71; (§ 835).

**964. CONSIDER LIMITATION UPON TOBACCO**

And whereas we have been formerly moved to put some restraint on the planting of tobacco in that our colony,<sup>56</sup> we recommend the consideration of this matter to you and our council there, wherein you may likewise consult the assembly if you see fit; to the end that upon due deliberation of what is best for that our colony and upon notice thereof given to us by one of our principal secretaries of state and to our Committee of Trade and Planta-

<sup>56</sup> This topic had been the subject of articles in the general instructions for Virginia since 1639 and had been particularly emphasized in 1662. *Va. Mag. of Hist. and Biog.*, II, 287; III, 17-18; XI, 56.

tions we may order and establish such good rule as may be for the public benefit of our subjects there.

Virginia: 1679-83.

### 965. ENCOURAGE RAISING OTHER CROPS THAN TOBACCO

And you shall particularly endeavor to advance the plantation and production of vines, silks, hemp, flax, pitch, and potashes, for which we are well assured that climate and soil is very proper; and for the encouraging thereof we are desirous that new and greater rewards be given in proportion to the great benefit that our colony would in a short time reap thereby: and that provision be accordingly made for it in the first laws you shall transmit unto us for our approbation.

Virginia: 1679-90.

### 966. ERECTION OF FAIRS IN PORT TOWNS

You shall with the advice and consent of the council erect a fair in each of the FOUR port towns of our said island to be held at such convenient times as shall be thought fit.

A—Omit FOUR and substitute: “principal”.

Barbados: 1673-1756.

Leeward Is: 1686-89 A.

### 967. PORTS OF ENTRY IN BERMUDA (I)

And for the better regulating of the trade of those our islands, you are to take care that all ships or vessels whatsoever arriving within your government shall, with the first opportunity of wind and weather, come to an anchor and lie in the Castle Harbor or in St. George's Harbor; and you are not to permit the said ships or vessels to load or unload any goods or merchandises whatsoever in any other port or harbor EXCEPT the harbors aforesaid.

A—Omit from EXCEPT to the end.

Bermuda: 1686-1721; 1721-43 A; (§ 968).

### 968. PORTS OF ENTRY IN BERMUDA (II)

Whereas it has been represented to us<sup>57</sup> that OUR 73RD INSTRUCTION,<sup>58</sup> directing and requiring you to oblige all ships and vessels whatsoever to anchor, load, and unload their goods and merchandise in Castle Harbor has been attended with many difficulties and inconveniences and may in time prove destructive of the trade of these our islands; it is our will and pleasure THAT our said 73rd instruction be revoked and we do hereby revoke the same, BUT you are hereby directed and required for the future to oblige all vessels to enter and clear at Castle Harbor or St. George's Harbor without obliging them either to load or unload there.

A—Omit OUR 73RD INSTRUCTION and substitute: “the”. Omit THAT . . . BUT, and substitute: “and”.

Bermuda: (§ 967); Nov. 30, 1743–1745; 1745–55 A; (§ 969).

### 969. PORTS OF ENTRY IN BERMUDA (III)

Whereas by the 71st article of his Majesty's former instructions to you,<sup>59</sup> you were directed and required to oblige all vessels to enter and clear at Castle Harbor or St. George's Harbor without obliging them either to load or unload there; and whereas it has been represented to his Majesty<sup>60</sup> that disputes have arisen concerning the meaning and intention of the said instruction, and that a compliance therewith has been frequently attended with great delays and inconveniences and losses to the trade and commerce of the said islands by reason of the difficult and dangerous navigation into and out of the said harbors; his Majesty has therefore thought it expedient for the ease and convenience of the commerce of the said islands, and in order to remove all difficulties and obstructions thereto to revoke and annul the said former instruction and every clause, article, and thing therein contained; but whereas a doubt may arise whether any other ports or places within the said islands are legal places of importation or exportation, for want of having an officer of the customs established thereat, we have therefore thought fit to give orders in his Majesty's name for

<sup>57</sup> See *Acts, Privy Coun., Col., 1720–45*, § 572.

<sup>58</sup> See above, § 967.

<sup>59</sup> See above, § 968.

<sup>60</sup> See *Acts, Privy Coun., Col., 1745–66*, pp. 304–305.

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the appointment of a searcher to reside at the west end of the said islands. It is nevertheless his Majesty's will and pleasure that all masters or other proper persons having the command of vessels trading to and from the said islands be obliged to enter and clear with the proper officer at the principal port in the said islands in the manner and form directed by such laws as are now in force for the better regulation of his Majesty's customs and of the plantations.

Bermuda: (§§ 967, 968); 1755-61; (§ 970).

**970. PORTS OF ENTRY IN BERMUDA (IV)**

Whereas his late Majesty was graciously pleased for the ease and convenience of the commerce of the said islands under your government to appoint a searcher to reside at the west end thereof, under whose inspection all vessels trading to and from our said islands may load and unload; it is nevertheless our will and pleasure that the masters or other persons having the command of all such vessels be obliged personally to repair to the principal port in our said islands, there to enter and clear with the proper officer in the manner and form directed by such laws as are now in force for the better regulation of our customs and of the plantation trade.

Bermuda: (§§ 967-969); 1761-Rev.

**971. APPOINTMENT OF MARKETS AND FAIRS**

You shall WITH the advice of the COUNCIL for the good of our subjects order and appoint markets and fairs to be kept on such days in such places and for such term and time as you shall find most convenient.

A—Omit WITH . . . COUNCIL.

Jamaica: 1670-81.

Virginia: 1679-82 A.

## PART XVI

### EXTERNAL RELATIONS

#### 972. INVESTIGATE INTERCOLONIAL BOUNDARY DISPUTES

WHEREAS we have thought fit to give directions to our lieutenant governor of Virginia and to the lords proprietors of Carolina for settling the boundaries between the provinces; and whereas directions were formerly sent to the respective governors for settling the boundaries between Maryland and Pennsylvania; you are therefore upon your arrival in the said provinces to inquire into this matter and to inform our Commissioners for Trade and Plantations what obstructions the same has met with, and the reasons thereof, with your opinion thereupon.

Nova Scotia: April 1, 1713.<sup>1</sup>

#### 973. MASSACHUSETTS-NEW HAMPSHIRE BOUNDARY COMMISSION (I)<sup>2</sup>

Whereas there has been a dispute of long continuance between our provinces of Massachusetts Bay and New Hampshire, in relation to the boundaries of the said province, and whereas we do judge it for our service as well as for the peace and tranquillity of the said colonies that the said dispute should be adjusted and a line marked out to divide the said provinces in all time to come; it is therefore our will and pleasure and you are hereby directed to propose to the general assembly of each of the said provinces respectively that discreet and indifferent persons be chosen by each of the said assemblies out of some of the neighboring colonies under our immediate government with sufficient powers to draw the said boundary line and finally to determine this dispute between the said provinces,

<sup>1</sup> This instruction was sent to Francis Nicholson, governor of Nova Scotia, who was charged with various tasks of inspection and supervision in the continental colonies.

<sup>2</sup> On §§ 973-974 see *Acts, Privy Coun., Col.*, 1720-45, §§ 102, 432.  
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whose proceedings therein shall be laid before us and shall be of none effect till our royal pleasure shall be signified thereupon.

Massachusetts: 1730-40; (§ 974).

New Hampshire: 1730-40; (§ 974).

#### 974. MASSACHUSETTS-NEW HAMPSHIRE BOUNDARY COMMISSION (II)

Whereas disputes and controversies have for many years subsisted between his Majesty's loving subjects of the province of the Massachusetts Bay and New Hampshire in New England in regard to the boundaries between the said two provinces, and whereas his Majesty was pleased by his order in council dated 22nd of January, 1735, [1736 N. S.] to direct that commissioners should be appointed to mark out the dividing line between the said provinces and also by his order in council of the 9th February, 1736 [1737 N. S.], to direct that a commission should be prepared and passed under the great seal (which said commission was accordingly issued out)<sup>3</sup> for authorizing such commissioners to meet within a limited time to mark out the dividing line between the said provinces, with liberty to either party who should think themselves aggrieved by the determination of the said commissioners to appeal therefrom to his Majesty in council, which said commissioners did make their report in the following words:

"In pursuance of his Majesty's aforesaid commission the court took under consideration the evidences, pleas, and allegations offered and made by each party referring to the controversy depending between them, and upon mature advisement on the whole, a doubt arose in point of law and thereupon the court came to the following resolution, viz:

"That if the charter of King William and Queen Mary dated October 7th in the third year of their reign grants to the province of the Massachusetts Bay all the lands which were granted by the charter of King Charles the First, dated the fourth March in the fourth year of his reign, to the late colony of the Massachusetts Bay lying to the northward of Merrimac River, then the court adjudge and determine that a line shall run parallel with the said river at the distance of three English miles north from the mouth of the said river beginning at the southerly side of the Black Rocks,

<sup>3</sup> *N. H. Prov. Laws*, II, 768-770.

so called, at low water mark, and from thence to run to the crotch or parting of the said river where the Rivers of Pemigewasset and Winnipesaukee meet, and from thence due north three English miles, and from thence due west towards the South Sea until it meets with his Majesty's other governments, which shall be the boundary or dividing line between the said provinces of the Massachusetts Bay and New Hampshire on that side; but if otherwise, then the court adjudge and determine that a line on the southerly side of New Hampshire, beginning at the distance of three English miles north from the southerly side of the Black Rocks aforesaid at low water mark and from thence running due west up into the mainland towards the South Sea until it meets with his Majesty's other governments shall be the boundary line between the said provinces on the side aforesaid, which point in doubt with the court as aforesaid, they humbly submit to the wise consideration of his Most Sacred Majesty in his Privy Council to be determined according to his royal will and pleasure.

"And as to the northern boundaries between the said provinces, the court resolve and determine that the dividing line shall pass up through the mouth of Piscataqua Harbor and up the middle of the river into the River of Newichwannock, part of which is now called Salmon Falls, and through the middle of the same to the furthest head thereof, and from thence north two degrees westerly until one hundred and twenty miles be finished from the mouth of the Piscataqua Harbor aforesaid or until it meets with his Majesty's other governments; and that the dividing line shall part the Isles of Shoals and run through the middle of the harbor between the islands to the sea on the southerly side and that the south-westerly part of the said islands shall lie in and be accounted part of the province of New Hampshire, and that the northeasterly part thereof shall lie in and be accounted part of the province of the Massachusetts Bay and be held and enjoyed by the said provinces respectively in the same manner as they now do and have heretofore held and enjoyed the same.

"And the court do further adjudge that the cost and charge arising by taking out the commission as also of the commissioners and their officers, viz: the two clerks, surveyor, and waiter, for their travelling expenses and attendance in the execution of the same, be equally borne by the said provinces".

And whereas appeals from the determination of the said com-

missioners have been laid before his Majesty by the agents for the respective provinces of the Massachusetts Bay and New Hampshire,<sup>4</sup> which said appeals have been heard before the Committee of Council for Hearing Appeals from the Plantations, who after having considered the whole matter and heard all parties concerned therein did report unto his Majesty as their opinion that the northern boundaries of the said province of the Massachusetts Bay are and be a similar curve line pursuing the course of Merrimac River at three miles distance on the north side thereof, beginning at the Atlantic Ocean and ending at a point due north of a place in the plan returned by the said commissioners called Pawtucket Falls and a straight line drawn from thence due west cross the said river until it meets with his Majesty's other governments, and that the rest of the commissioners' said report or determination be affirmed by his Majesty; which said report of the said committee of council his Majesty hath been pleased with the advice of his Privy Council to approve<sup>5</sup> and to declare, adjudge, and order that the northern boundaries of the said province of the Massachusetts Bay are and be a similar curve line pursuing the course of the Merrimac River at three miles distance on the north side thereof, beginning at the Atlantic Ocean and ending at a point due north of a place in the plan returned by the said commissioners called Pawtucket Falls and a straight line drawn from thence due west cross the said river till it meets with his Majesty's other governments; and to affirm the rest of the commissioners's said report or determination, whereof the governor or commander in chief of his Majesty's said provinces for the time being, as also his Majesty's respective councils and assemblies thereof and all others whom it may concern are to take notice.

It is therefore his Majesty's will and pleasure and you are hereby required and enjoined under pain of his Majesty's highest displeasure and of being removed from your government, to take especial care that his Majesty's commands in this behalf be executed in the most effectual and expeditious manner to the end that his Majesty's good intentions for promoting the peace and quiet of the said provinces may not be frustrated or delayed; you are likewise hereby directed to communicate this instruction to the COUNCILS and assemblies of his Majesty's said PROVINCES and to cause the

<sup>4</sup> N. H. Prov. Laws, II, 771-790

<sup>5</sup> Ibid., pp. 790-794.

same to be entered in the council books of the said provinces respectively.

And for your further information herein an authentic copy of the plan returned by the said commissioners is hereunto annexed.

A—Omit COUNCILS . . . PROVINCES (in next to last paragraph) and substitute: "council and assembly of his Majesty's said province of [the Massachusetts Bay, New Hampshire]."

Massachusetts: (§ 973); Aug. 5, 1740— New Hampshire: (§ 973); Aug. 5, 1740—  
1741; 1741-57 A. 1741; 1741-61 A.

### 975. COST OF NEW YORK-NEW JERSEY BOUNDARY COMMISSION

Whereas it has been represented unto us that a controversy has for many years subsisted between his Majesty's provinces of New York and New Jersey concerning the true line of partition between the said provinces, on account of which great outrages have from time to time been committed on the frontiers of the said provinces, to the prejudice of his Majesty's service and the disturbance of the public peace; and whereas it is of the greatest importance to the tranquillity and welfare of the said provinces that a line of property and jurisdiction should be speedily settled between them, which can only be done by a commission to be issued by his Majesty for that purpose, with liberty to all parties who shall think themselves aggrieved by the judgment of the commissioners thereby to be appointed to appeal from such judgment to his Majesty in his Privy Council; and whereas the agent for the proprietors of New Jersey has declared himself willing to concur on their behalf in this measure, as the only proper and effectual means of determining the matter in dispute and has offered to give ample security that the said proprietors shall and will defray one-half of the expense of obtaining and executing such a commission; you are therefore hereby authorized and required earnestly to recommend it in his Majesty's name to the assembly of the province of New York under your government that they do make speedy and effectual provision for defraying the other moiety of the expense of obtaining and executing such commission as aforesaid, whenever his Majesty shall be graciously pleased to issue the same.

New York: Aug. 12, 1755.

## 976. NORTH AND SOUTH CAROLINA BOUNDARY (I)

And in order to prevent any disturbances that may arise about the [southern, northern] boundaries of the province under your government, we are graciously pleased to signify our pleasure that a line shall be run by commissioners appointed by each province beginning at the sea thirty miles distant from the mouth of Cape Fear River on the southwest thereof, keeping the same distance from the said river as the course thereof runs, to the main source or head thereof, and from thence the said boundary line shall be continued due west as far as the South Seas; but if Waggamaw River runs within thirty<sup>6</sup> miles of Cape Fear River, then that river to be the boundary from the sea to the head thereof, and from thence to keep the distance of thirty miles parallel from Cape Fear River to the head thereof, and from thence a due west course to the South Seas.

North Carolina: 1730-54; (§ 977).

South Carolina: 1730-55; (§ 977).

## 977. NORTH AND SOUTH CAROLINA BOUNDARY (II)

Whereas it hath been represented to us<sup>7</sup> that great disputes have arisen and much mischief and confusion are likely to ensue amongst our subjects on the frontier of our provinces of North and South Carolina from the want of a certain known line of jurisdiction between the said provinces; in order therefore to prevent all further disputes of the like nature and to preserve the peace and tranquillity of both our said provinces until a perpetual line of partition between them shall be finally determined by us, we have thought fit hereby to signify to you our will and pleasure that the line already agreed upon, begun and in part set out by commissioners appointed by both the said provinces in the year 1735 in consequence of his late Majesty's instructions to Gabriel Johnston, Esq., then governor of North Carolina,<sup>8</sup> shall be the temporary line of jurisdiction between our said provinces of North and South Carolina, and in case it shall appear that the said line has not been marked out by the said commissioners so far north as the thirty-fifth

<sup>6</sup> In *N. Car. Col. Recs.*, III, 115, this distance is incorrectly printed as fifty miles. The Public Record Office copy of Burrington's 1730 instructions, art. 104, gives thirty miles as do all other instances of this article. C. O. 5: 192, p. 211.

<sup>7</sup> See *Acts, Privy Coun., Col.*, 1745-66, § 496.

<sup>8</sup> See above, § 976.

degree of north latitude, you are hereby authorized and required to appoint commissioners to proceed jointly with commissioners to be appointed by our governor of SOUTH Carolina in continuing the said line in the same direction in which it has hitherto proceeded, to the said thirty-fifth degree of north latitude, and from thence due west until it meets the eastern limits of the lands claimed by the Catawba Indians; and it is our express will and pleasure that no settlement whatever be made, nor the jurisdiction of either province exercised upon the lands claimed by the said Indians until the said claims shall be finally adjusted; and our further will and pleasure is that the forts which have been erected by either of our said provinces to the westward of the said lands so claimed by the Catawbas shall be deemed to belong to and continue to be maintained by that province at the expense of which they were erected and have hitherto been supported.

A—Omit SOUTH and substitute: “North.”

North Carolina: (§ 976); April 13, 1763;      South Carolina: (§ 976); April 13, 1763  
(§ 978).      A; (§ 978).

### 978. NORTH AND SOUTH CAROLINA BOUNDARY (III)

Whereas in consequence of our additional instructions to our governors of North Carolina and South Carolina respectively in the year 1763,<sup>9</sup> a temporary line of jurisdiction has been agreed upon, and set out by commissioners appointed by both the said provinces; we do signify to you our will and pleasure that the line so set out shall be the line of jurisdiction between our said provinces until a perpetual line of partition between them shall be finally determined by us, or until our further pleasure shall be signified thereupon.

North Carolina: (§ 977); 1765–71;      South Carolina: (§ 977); 1766–71;  
(§ 979).

### 979. NORTH AND SOUTH CAROLINA BOUNDARY (IV)

Whereas we thought fit, in consequence of representations made to us that great disputes had arisen and much mischief and con-

<sup>9</sup> See above, § 977.

fusion had ensued amongst our subjects on the frontiers of North Carolina and South Carolina from the want of a certain known line of jurisdiction between the said provinces,<sup>10</sup> to direct by our royal instructions to the governors of our said provinces in the year 1763 that a line should be run out in the manner therein prescribed,<sup>11</sup> in consequence whereof a line hath been accordingly run out and marked by commissioners appointed for that purpose as far as the Salisbury Road near the Catawba lands; now it is our will and pleasure and you are hereby authorized and required to appoint commissioners to proceed jointly with commissioners to be appointed by our governor of SOUTH Carolina in continuing the boundary line from the said Salisbury Road where it now ends along the said road to where it enters the Catawba lands, from thence along the southern, eastern, and northern boundary of the said lands to where the Catawba River enters the said lands on the north, from thence to follow the middle stream of that river north-  
erly to the confluence of the northern and southern branches thereof, and from thence due west until it reaches the line agreed upon with the Cherokee Indians as a boundary between their country and the settlements of our subjects. And it is our farther will and pleasure that the line beginning at the sea thirty miles distant from the mouth of Cape Fear River on the southwest thereof following the direction in which it hath been already run out and marked as far as the said Salisbury Road near the Catawba lands and as it is hereby directed to be continued from the station point on that road to the Cherokee line in the manner above mentioned shall be the final boundary between our said provinces of North and South Carolina.

A—Omit SOUTH and substitute: "North."

North Carolina: (§§ 976-979); June 10, 1771. South Carolina: (§§ 976-979); June 10, 1771 A.

**980. ARRANGE FOR NOVA SCOTIA-CANADIAN BOUNDARY  
COMMISSION**

You shall after your arrival there propose to the governor of Canada to appoint one or more commissioners in behalf of the

<sup>10</sup> See *Acts, Privy Coun.*, Col., 1766-83, § 123.

<sup>11</sup> See above, § 977.

French to be joined with such as you shall appoint on his Majesty's part to view the limits between his Majesty's territories and those of France bordering on Nova Scotia, pursuant to the articles of the Treaty of Utrecht, and to such further instructions as you shall receive from hence for that purpose; and you shall send a full account of your proceedings herein to one of his Majesty's principal secretaries of state to be laid before his Majesty and to the Commissioners for Trade and Plantations as aforesaid with your opinion upon the whole.

Nova Scotia: 1719-49.

#### 981. TO DEMAND SURRENDER OF RHODE ISLAND CHARTER

Whereas we have been presented with the humble address of our Governor and Company of our Colony of Rhode Island and Providence Plantation within our territory and dominion of New England, bearing date the 3rd day of June last,<sup>12</sup> wherein they take notice of our writ of *quo warranto* against their charter and thereupon declaring their resolution not to stand suit with us, have submitted themselves and their charter to our royal determination; our will and pleasure is and we do hereby authorize and empower you upon your arrival in those parts to demand in our name the surrender of their said charter into your hands in pursuance of their said declaration and address, and taking our said colony of Rhode Island and Providence Plantation under your government, to exercise the like powers and authorities in reference to the same as we have given and granted unto you by our commission under the great seal of England for the government of other colonies within our said territory and dominion of New England, assuring our good subjects of our colony and plantation aforesaid of our royal countenance and protection in all things wherein our service and their welfare shall be concerned, and giving us by the first opportunity an account of their behavior and of your proceedings in obedience to these our commands.

And in case it shall happen that upon the like writ of *quo warranto* issued against the charter of our Governor and Company of

<sup>12</sup> The address was dated July 3, 1686, not June 3. *R. I. Col. Recs.*, III, 193-194.

our Colony of Connecticut they shall be induced to make surrender of their charter, our will and pleasure is and we do hereby authorize and empower you in our name to receive such surrender and to take our said colony of Connecticut under your government in the same manner as before expressed.<sup>13</sup>

New England: Sept. 13, 1686.

#### 982. SOUTH CAROLINA GOVERNOR TO ASSIST SETTLEMENT OF GEORGIA

Whereas application hath been made to us by the humble petition of the trustees for establishing the colony of Georgia in America, setting forth that the petitioners being incorporated by our royal charter bearing date the 9th day of June last for settling a regular colony within the bounds of our province of South Carolina, they find it necessary for carrying on the said service that notice should be given of the said charter to the governor of our said province with a signification of our royal pleasure that all due countenance and encouragement should be given for settling the said colony, and therefore most humbly praying that we should be pleased to give such instructions to the governor of our said province as may be proper upon this occasion, and likewise a direction for registering the said charter in the records of our said province from a copy to be annexed to the said instructions; <sup>14</sup> we have been graciously pleased to condescend to the petitioners' request and have thought fit hereby to will and require you to give all due countenance and encouragement for the settling of the said colony of Georgia, by being aiding and assisting to such of our subjects as shall come into our province of South Carolina for that purpose according to our gracious intentions declared in our royal charter aforementioned, a copy whereof is hereunto annexed, which we do hereby further require you to cause to be forthwith registered and entered upon record by the proper officer of our said province of South Carolina.

South Carolina: Sept. [28], 1732.

<sup>13</sup> Andros eventually took over the government of Connecticut in consequence of a royal warrant (not an instruction) dated June 27, 1687. *N. H. Prov. Paprs.*, I, 171-172.

<sup>14</sup> See *Acts, Privy Coun., Col.*, 1720-45, p. 305.

### 983. ASSERT VIRGINIA'S RIGHTS IN THE POTOMAC

And whereas we have received the representation of our council of Virginia<sup>15</sup> COMPLAINING that the Lord Baltimore insisted on a pretended right to the whole river of Potomac, which did very much discourage the merchants and masters of ships trading to that our colony, WE have thereupon and for several misdemeanors laid to the charge of the Lord Baltimore ordered a writ of *quo warranto* to be issued out against him, whereby the powers of that charter and government of that province may be seized into our hands, and in the MEANTIME you are to assert our right in those parts and to take care that the trade of our subjects be not disturbed by the said pretenses or any others whatsoever.

A—Omit from beginning through COMPLAINING and substitute: "Whereas our council of Virginia has formerly made complaints". Omit WE . . . MEANTIME.

Virginia: 1685-90; 1690-1756 A.

### 984. PROHIBITION OF TRADE WITH REVOLTING COLONIES

Whereas an act was passed in the present session of parliament entitled *An Act to Prohibit All Trade and Intercourse with the Colonies of New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the Three Lower Counties on Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, during the Continuance of the Present Rebellion within the Said Colonies Respectively; for Repealing an Act Made in the Fourteenth Year of the Reign of His Present Majesty to Discontinue the Landing and Discharging, Lading or Shipping of Goods, Wares, and Merchandise at the Town and within the Harbor of Boston in the Province of Massachusetts Bay; and Also Two Other Acts Made in the Last Session of Parliament for Restraining the Trade and Commerce of the Colonies in the Said Acts Respectively Mentioned, and to Enable Any Person or Persons Appointed and Authorized by His Majesty to Grant Pardons, to Issue Proclamations in the Cases and for the Purposes*

<sup>15</sup> Cal. State Paps., Col., 1681-85, § 1749. See also *ibid.*, §§ 1750, 1768.

*Therein Mentioned;*<sup>16</sup> it is our royal will and pleasure and you are hereby instructed and required to have especial care that the said act be duly observed by all persons within your government; and it will be your particular duty in granting licenses in writing under your hand and seal to ships and vessels for going to any port or place in the aforementioned colonies, to see that the said licenses be granted to such ships and vessels only as are specified and described in the said act, and that the form or forms observed by you in granting the said licenses be strictly agreeable to what is therein prescribed and laid down; for your better government and direction wherein we have hercunto annexed the form to be observed by you as follows, viz:

"To all flag officers, captains, commanders, and other commissioned officers in his Majesty's pay, and also to all others whom these presents shall or may concern: In pursuance of an act passed in the sixteenth year of his Majesty's reign, entitled *An Act to Prohibit All Trade and Intercourse with the Several Colonies in North America Therein Mentioned*, I do hereby authorize and permit —, Master of the ship —, of the burden — (to proceed with the said ship and cargo, consisting of the particulars specified in the schedule annexed, from the port of — to the port of —, there to unload and deliver the said cargo and to return from thence with his said ship to —. This license to subsist and be in force from the day of the date hereof, until her return as aforesaid.)"

In the case of transports employed in our service, the words between hooks [parentheses] shall be omitted and the following ones shall be adopted; viz: "(being a transport employed in his Majesty's service to proceed in his said ship to some port or ports in North America, and to return from thence with his said ship to —. This license to subsist and be in force from the day of the date hereof until the — day of — or for so long as she shall be employed in his Majesty's service as aforesaid. Given under my hand and seal the — day of —."

Circular: Bahamas, Barbados, Bermuda, Dominica, East Florida, Grenada, Jamaica, Leeward Is., Nova Scotia, Quebec, St. John, West Florida: Feb. 24, 1776.

### 985. REPORT ON THE STRENGTH OF NEIGHBORS

You are from time to time to give an account as before directed what strength your BORDERING neighbors have, BE they Indians or

<sup>16</sup> 16 Geo. III, c. 5.

OTHERS, by sea and land, AND of the condition of their PLANTATIONS,  
AND WHAT correspondence you do keep with them.

A—Omit BORDERING.

B—Omit BE . . . OTHERS.

C—Omit AND . . . PLANTATIONS.

D—Omit from AND WHAT to the end.

Bahamas: 1729—Rev. A.

Barbados: 1672—89 C; 1689—1702 A, B,  
C; 1702—Rev. A.

Dominica: 1770—Rev. A, B.

Georgia: 1754—Rev.

East Florida: 1763—Rev. A, B.

Grenada: 1763—Rev. A, B.

Jamaica: 1674—85 C; 1701—52 A; 1752—  
Rev. A, B.

Leeward Is.: 1689—99 A, B, D; 1699—  
1702 A, B; 1702—61 A; 1761—Rev.  
A, B.

Maryland: 1703—15.

Massachusetts: 1691—Rev. A.

New England: 1686—89 C.

New Jersey: 1702—Rev.

New York: 1686—1701 C; 1701—70.

North Carolina: 1730—Rev. A.

Nova Scotia: 1749—Rev. A.

Quebec: 1763—75 A, B.

St. Vincent: 1776—Rev. A, B.

South Carolina: 1720—30; 1730—Rev. A.

Virginia: 1679—85 C; 1702—10 C; 1710—  
68.

West Florida: 1763—Rev. A, B.

## 986. LAW AGAINST PIRATES INJURING ENGLISH ALLIES

And whereas we are informed of great disorders and depredations daily committed to the prejudice of our allies contrary to treaties between us and the good correspondence that ought to be maintained between Christian princes and states; AND we having already given strict order in our island of Jamaica against such illegal proceedings by passing a law for restraining and punishing privateers and PIRATES; our will and pleasure is that you take care that such a law (a copy whereof is herewith delivered unto you) be passed within our province under your government, which you are to certify unto us by the first opportunity.

A—Omit AND . . . PIRATES.

B—Omit AND . . . PIRATES and substitute: "and there being a law passed in our island of Jamaica against such illegal proceedings".

Barbados: May 3, 1684.

Bermuda: 1686—90.

Massachusetts: 1691—1702 A.

New England: 1686—89 B.

New York: 1686—97 A.

*Therein Mentioned;*<sup>16</sup> it is our royal will and pleasure and you are hereby instructed and required to have especial care that the said act be duly observed by all persons within your government; and it will be your particular duty in granting licenses in writing under your hand and seal to ships and vessels for going to any port or place in the aforementioned colonies, to see that the said licenses be granted to such ships and vessels only as are specified and described in the said act, and that the form or forms observed by you in granting the said licenses be strictly agreeable to what is therein prescribed and laid down; for your better government and direction wherein we have hercunto annexed the form to be observed by you as follows, viz:

"To all flag officers, captains, commanders, and other commissioned officers in his Majesty's pay, and also to all others whom these presents shall or may concern: In pursuance of an act passed in the sixteenth year of his Majesty's reign, entitled *An Act to Prohibit All Trade and Intercourse with the Several Colonies in North America Therein Mentioned*, I do hereby authorize and permit —, Master of the ship —, of the burden — (to proceed with the said ship and cargo, consisting of the particulars specified in the schedule annexed, from the port of — to the port of —, there to unload and deliver the said cargo and to return from thence with his said ship to —. This license to subsist and be in force from the day of the date hereof, until her return as aforesaid.)"

In the case of transports employed in our service, the words between hooks [parentheses] shall be omitted and the following ones shall be adopted; viz: "(being a transport employed in his Majesty's service to proceed in his said ship to some port or ports in North America, and to return from thence with his said ship to —. This license to subsist and be in force from the day of the date hereof until the — day of — or for so long as she shall be employed in his Majesty's service as aforesaid. Given under my hand and seal the — day of —.)"

Circular: Bahamas, Barbados, Bermuda, Dominica, East Florida, Grenada, Jamaica, Leeward Is., Nova Scotia, Quebec, St. John, West Florida: Feb. 24, 1776.

### 985. REPORT ON THE STRENGTH OF NEIGHBORS

You are from time to time to give an account as before directed what strength your BORDERING neighbors have, BE they Indians or

<sup>16</sup> 16 Geo. III, c. 5.

OTHERS, by sea and land, AND of the condition of their PLANTATIONS,  
AND WHAT correspondence you do keep with them.

A—Omit BORDERING.

B—Omit BE . . . OTHERS.

C—Omit AND . . . PLANTATIONS.

D—Omit from AND WHAT to the end.

Bahamas: 1729—Rev. A.

Barbados: 1672—89 C; 1689—1702 A, B, C; 1702—Rev. A.

Dominica: 1770—Rev. A, B.

Georgia: 1754—Rev.

East Florida: 1763—Rev. A, B.

Grenada: 1763—Rev. A, B.

Jamaica: 1674—85 C; 1701—52 A; 1752—Rev. A, B.

Leeward Is: 1689—99 A, B, D; 1699—1702 A, B; 1702—61 A; 1761—Rev. A, B.

Maryland: 1703—15.

Massachusetts: 1691—Rev. A.

New England: 1686—89 C.

New Jersey: 1702—Rev.

New York: 1686—1701 C; 1701—70.

North Carolina: 1730—Rev. A.

Nova Scotia: 1749—Rev. A.

Quebec: 1763—75 A, B.

St. Vincent: 1776—Rev. A, B.

South Carolina: 1720—80; 1730—Rev. A.

Virginia: 1679—85 C; 1702—10 C; 1710—68.

West Florida: 1763—Rev. A, B.

## 986. LAW AGAINST PIRATES INJURING ENGLISH ALLIES

And whereas we are informed of great disorders and depredations daily committed to the prejudice of our allies contrary to treaties between us and the good correspondence that ought to be maintained between Christian princes and states; AND we having already given strict order in our island of Jamaica against such illegal proceedings by passing a law for restraining and punishing privateers and PIRATES; our will and pleasure is that you take care that such a law (a copy whereof is herewith delivered unto you) be passed within our province under your government, which you are to certify unto us by the first opportunity.

A—Omit AND . . . PIRATES.

B—Omit AND . . . PIRATES and substitute: "and there being a law passed in our island of Jamaica against such illegal proceedings".

Barbados: May 3, 1684.

Bermuda: 1686—90.

Massachusetts: 1691—1702 A.

New England: 1686—89 B.

New York: 1686—97 A.

## 987. PREVENT LETTERS FROM FALLING INTO ENEMY HANDS

Whereas we have been informed that during the time of war our enemies have frequently got intelligence of the state of our plantations by letters from private persons to their correspondents in Great Britain taken on board ships coming from the PLANTATIONS, which has been of dangerous CONSEQUENCE; our will and pleasure therefore is that you signify to all merchants, planters, and others that they be very cautious IN time of war, whenever that shall HAPPEN, in giving any account by letters of the public state and condition of our province of —; and you are further to give directions to all masters of ships or other persons to whom you may intrust your letters that they put such letters into a bag with a sufficient weight to sink the same immediately, in case of imminent danger from the enemy; and you are also to let the merchants and planters know how greatly it is for their interest that their letters should not fall into the hands of the enemy, and therefore that they should give the like orders to masters of ships in relation to their letters; and you are further to advise all masters of ships that they do sink all letters in case of danger in the manner before mentioned.<sup>17</sup>

A—Omit from beginning through CONSEQUENCE and substitute: "Whereas we have been informed that intelligence has been had in France of the state of our plantations by letters from private persons to their correspondents in England, taken on board ships coming from the plantations and carried into France, which may be of dangerous consequence if not prevented for the future". Omit IN . . . HAPPEN.

B—Omit from beginning through PLANTATIONS and substitute: "Whereas we have been informed that during the late war intelligence has frequently been had in France of the state of our plantations by letters from private persons to their correspondents in this kingdom taken on board ships coming from the plantations and carried into France".

Bahamas: 1729—Rev.

Barbados: 1707—15 A; 1715—28 B; 1728—  
Rev.

Bermuda: 1713—15 A; 1715—Rev. B.

Dominica: 1770—Rev.

East Florida: 1763—Rev.

<sup>17</sup> First sent in almost identical wording as a circular letter to the governors of the plantations in America, June 29, 1704, *Cal. State Paps., Col.*, § 1704—5, § 426.

Georgia: 1754—Rev.	New York: 1708–15 A; 1715–27 B; 1727–Rev.
Grenada: 1763—Rev.	North Carolina: 1730—Rev.
Jamaica: 1710–15 A; 1715–27 B; 1727–Rev.	Nova Scotia: 1749—Rev.
Leeward Is: 1705–15 A; 1715–28 B; 1728—Rev.	Quebec: 1763—Rev.
Massachusetts: 1715–28 B; 1728—Rev.	St. Vincent: 1776—Rev.
New Hampshire: 1715–28 B; 1728—Rev.	South Carolina: 1720–30 B; 1730—Rev.
New Jersey: 1708–15 A; 1715–27 B; 1727—Rev.	Virginia: 1705–15 A; 1715–28 B; 1728—Rev.
	West Florida: 1763—Rev.

### 988. HINDER WARTIME CORRESPONDENCE WITH ENEMY

And whereas in the late war the merchants and planters in AMERICA did correspond and trade with OUR ENEMIES and carry intelligence to them to the great prejudice and hazard of the British plantations, you are therefore by all possible methods to endeavor to hinder all such trade and correspondence IN time of war.

A—Omit AMERICA and substitute: "West Indies". Omit OUR ENEMIES and substitute: "the French".

B—Omit from IN to the end and substitute: "with the French, whose strength in the West Indies gives very just apprehensions of the mischiefs that may ensue if the utmost care be not taken to prevent them".

C—Add at end: "with the French, whose strength in the West Indies gives very just apprehensions of the mischiefs that may ensue if the utmost care be not taken to prevent them".

Bahamas: 1729—Rev.	New Hampshire: 1715–28 A, C; 1728–Rev.
Barbados: 1707–15 A, B; 1715–28 A, C; 1728—Rev.	New Jersey: 1708–27 A, B; 1727—Rev.
Bermuda: 1718–21 A, B; 1721–28 A, C; 1728—Rev.	New York: 1708–27 A, B; 1727—Rev.
Dominica: 1770—Rev.	North Carolina: 1730—Rev.
East Florida: 1763—Rev.	Nova Scotia: 1749—Rev.
Georgia: 1754—Rev.	Quebec: 1763—Rev.
Grenada: 1763—Rev.	St. Vincent: 1776—Rev.
Jamaica: 1710–27 A, B; 1727—Rev.	South Carolina: 1720–30 A, B; 1730—Rev.
Leeward Is: 1711–28 A, B; 1728—Rev.	Virginia: 1707–28 A, B; 1728—Rev.
Massachusetts: 1715–28 A, C; 1728—Rev.	West Florida: 1763—Rev.

## 992. ILLEGAL TRADE IN VIOLATION OF TREATY OF 1686

Whereas by the 5th and 6th articles of the treaty of peace and neutrality concluded between England and France the 6/16 day of November, 1686,<sup>21</sup> the subjects and inhabitants of each kingdom are prohibited to trade and fish in all places possessed or which shall be possessed by the other in America, and that if any ships shall be found trading contrary to the said treaty, upon due proof, the said ship shall be confiscated; but in case the subjects of either king shall be forced by stress of weather, enemies, or other necessity into the ports of the other in America, they shall be treated with humanity and kindness and may provide themselves with victuals and other things necessary for their sustenance and reparation of their ships at reasonable rates, provided they do not break bulk nor carry any goods out of their ships, exposing them to sale, nor receive any merchandise on board, under penalty of confiscation of ship and goods; NOTWITHSTANDING which treaty we are given to understand that an illegal trade has been carried on between our plantations and the French settlements in America, on pretense that there is no law in force against such TRADE; it is therefore our will and pleasure that you signify to our subjects under your government the purport and intent of the abovesaid two articles, and that you take particular care THAT the same be punctually observed, and put in execution, and that no illegal trade be carried on between our subjects in the said province of — under your government, and the French settlements in America by any of our ships of war attending that province or by any other British ships; as LIKEWISE that none of the French subjects be allowed to trade from their said settlements to —.<sup>22</sup>

A—Omit NOTWITHSTANDING . . . TRADE and THAT . . . LIKEWISE.  
Add at end: "or to fish upon the coast thereof."

York, and Virginia, and to the proprietors of Carolina, Jan. 22, 1687/8; and the second paragraph as a similar letter, April 1, 1688, to the governors of Barbados, the Leeward Is., New England, and New York. *Cal. State Paps., Col.*, 1685–88, §§ 1600, 1601, 1681.

<sup>21</sup> Davenport, *Treaties bearing on the Hist. of the U. S.*, II, 309–323 (no. 79). The English translation of articles 5 and 6 is on *ibid.*, pp. 320–321.

<sup>22</sup> A circular letter from the Board of Trade to the governors, Aug. 19, 1714, and another to the governors and proprietors, May 16, 1717, were forerunners of this instruction. *Cal. State Paps., Col.*, 1714–15, §§ 31, 32; 1716–17, § 571.

Bahamas: 1729-59.	New Hampshire: 1728-30; 1730-61 A.
Barbados: 1721-32; 1732-46 A.	New Jersey: 1720-47.
Bermuda: 1721-45; 1755-61; 1764-Rev.	New York: 1720-61.
East Florida: 1763-73 A.	North Carolina: 1730-61 A.
Georgia: 1754-58.	Nova Scotia: 1749-66.
Grenada: 1763-71 A.	Quebec: 1763-68 A.
Jamaica: 1718-34; 1734-58 A.	South Carolina: 1720-30; 1730-61 A.
Leeward Is: 1721-33; 1733-61 A.	Virginia: 1728-61.
Massachusetts: 1728-30; 1730-57 A.	West Florida: 1763-67 A.

### 993. COLONIAL SHIPS MAY TRADE TO FRENCH PLANTATIONS

And whereas the governors of some of our plantations have so far mistaken the sense of the said articles and their instructions grounded thereon,<sup>23</sup> as to proceed to the condemnation of ships and cargoes belonging to our own subjects, under pretense of their having contravened the said articles by trading to the French plantations, which was not the sense of those articles and which could only entitle our governors to condemn French ships trading to our plantations, there being no law to justify the condemnation of the ships belonging to our subjects for such trade; it is therefore our further will and pleasure that seizures be for the future confined to ships and vessels belonging to the subjects of the crown of France only.

Barbados: 1728-32.

### 994. TO KEEP ON GOOD TERMS WITH CANADIANS

You shall live in good correspondence with the said governor<sup>24</sup> and all other officers and subjects of the Most Christian King, taking particular care that no violence be offered to them, whereby an occasion might be given to interrupt the friendship and good correspondence between the two crowns, which more particularly in the present juncture is so necessary for their mutual advantage. And in case the subjects of France should make any depredations upon those of his Majesty or do them any other injury, you shall not make reprisals without further order from his Majesty, but you shall in an amicable manner demand redress of the governor

<sup>23</sup> See above, § 992.

<sup>24</sup> Of Canada.

of Canada or such other officer as it may concern; but if it should so happen that he persist in justifying what such subjects of France may have done, and that either through his obstinacy or the dubiousness of the case you shall not be able to adjust the difference between yourselves in a friendly manner, you shall represent the same to one of his Majesty's principal secretaries of state and to the Commissioners for Trade and Plantations to be laid before his Majesty, acquainting the said governor or other officer in the first place with your intention so to do and offering to impart to him your representation of the case, if he will in like manner communicate to you what he writes to the French court upon that subject.

Nova Scotia: 1719-49.

#### 995. KEEP STRICT WATCH OVER CANADA AND CAPE BRETON

You are notwithstanding to keep as strict a watch as possible upon the proceedings of the French at Cape Breton and in Canada, and particularly you are to send to his Majesty by one of his secretaries and to the Commissioners for Trade and Plantations frequent accounts of their number, strength, and situation; what commerce they carry on; and what progress they have made in their settlement ON the back of the British plantations, especially with regard to the communication they are said to have opened from the Gulf and River of St. Lawrence to the Lakes of Ontario and Erie and from thence down the River Mississippi to the Bay of Mexico.

A—Omit from ON to the end.

Nova Scotia: 1719-49; 1749-64 A.

#### 996. STOP PRIVATEERING AGAINST THE SPANISH

You shall cause the late treaty for the composing of differences, restraining of depredations, and the establishing of peace in America, concluded at Madrid, the 8/18 day of July, 1670, between us and the crown of Spain <sup>25</sup> to be published within eight months

<sup>25</sup> Davenport, *Treaties bearing on the Hist. of the U. S.*, II, 187-196 (no. 65); George Chalmers, *A Collection of Treaties* (1790), II, 34-40.

to be computed from the 10/20th of October, 1670 (that being the day of the exchange of the instruments of the said treaty), or sooner if you can agree with the Spanish governors in those parts upon a certain day for the publication thereof. And that there may not be a failure on our part in taking care that our subjects do abstain from all force and wrong doing, you are likewise at the time of the publication of the said treaty in our name to revoke all commissions and letters of reprisal or mart, or otherwise containing license to take prizes of what condition or kind soever, being to the prejudice of the King of Spain or any of his subjects, whether the same have been given or granted to any of our subjects or unto strangers, and to declare them to be void and of no force.

Jamaica: 1670-74.

Leeward Is: 1671-86.

### 997. OBSERVE TREATY OF MADRID (I)

Our will and pleasure is and we do hereby strictly command and enjoin you carefully to observe all the articles contained in the said treaty for the establishing of peace in America between us and the Crown of Spain<sup>26</sup> which on our part are agreed to be performed according to the true intent and meaning of them, A copy whereof you shall herewith receive.

A—Omit from beginning through you and substitute: "you are". Omit from A to the end.

Jamaica: 1670-74 A; (§ 998).

Leeward Is: 1671-86; (§ 998).

### 998. OBSERVE TREATY OF MADRID (II)

Our will and pleasure is and we do hereby strictly command and enjoin you carefully to observe all the articles contained in the late treaty for composing of differences, restraining depredations, and the establishing of peace in America concluded at Madrid the 8/18 day of July, 1670, between us and the Crown of Spain, AN AUTHENTIC copy whereof you shall herewith receive.

A—Omit AN AUTHENTIC and substitute: "a". Add at end: "attested".  
B—Omit from AN to the end.

<sup>26</sup> See last note.

Barbados: 1672-1702 A.	Massachusetts: 1691-1702.
Bermuda: (§ 999); 1690-1702.	New Hampshire: 1682-86 B; 1692-1702 B.
Jamaica: (§ 997); 1674-81 A; 1681-1702.	New York: 1690-1703.
Leeward Is: (§ 997); 1686-99 A; 1699-1702.	Virginia: 1682-1702.
Maryland: 1691-98 B; 1698-1703.	

### 999. REPORT INJURIES TO ENGLISH SUBJECTS BY OTHERS

And in case any private injury or damage shall be offered or done to any of our subjects in those parts by any of the subjects OF the King of Spain OR ANY other prince or state in amity with us, you shall take care to give us an account thereof with all convenient speed BY one of our principal secretaries of state or to our Committee for Trade and PLANTATIONS, and not to permit or encourage reparations thereof to be sought by any other way than WHAT is directed AND agreed in the said Articles of Madrid OR OTHER TREATIES.

A—Add at beginning: “Our will and pleasure is and we do hereby strictly command and enjoin you carefully to observe the treaties concluded by us with any foreign prince or state.”

B—Omit OF . . . us and substitute: “of any such prince or state.”

C—Omit OR ANY . . . US. Omit OR OTHER TREATIES.

D—Omit BY . . . PLANTATIONS.

E—Omit from WHAT to the end and substitute: “such as shall be agreeable to the said treaties and the instructions herewith given you.”

F—Omit from AND to the end and substitute: “by the said treaties.”

Barbados: 1689-1702.	New England: 1686-88 A, B, D, F; 1688-89 A, B, D, E.
Bermuda: 1686-90 A, B, D, F; 1690-98 B, F; 1698-1702 B.	New Hampshire: 1692-1702.
Jamaica: 1674-87 C; 1687-1702.	New York: 1686-90 A, B, D, F; 1690-1701 D, F; 1701-3.
Leeward Is: 1689-1702.	
Maryland: 1691-98 F; 1698-1703.	Virginia: 1682-90 C; 1690-1702.
Massachusetts: 1691-1702 D, F.	

### 1000. RELATIONS OF JAMAICA WITH SPANIARDS

According to the instructions already given you,<sup>27</sup> you shall exactly observe the article of peace made between us and our good brother the King of Spain.

<sup>27</sup> See above, § 998.

In respect we have been very creditably informed that his Catholic Majesty has sent orders to his governor in America to give commissions unto privateers to act hostility upon our subjects in the West Indies, you shall immediately upon your arrival at Jamaica inquire into the truth of such commissions being given out.

If you shall find that either before or after your arrival there any hostilities has [*sic*] been acted by virtue of such commissions upon any of our subjects contrary to the late treaties of peace between the two crowns, you shall send to the viceroy or governor by whose commissions those hostilities have been acted for reparation of damages and punishment upon the offenders, which if denied or unreasonably delayed you may then in pursuance of the 14th article of the treaty concluded between us and his said Catholic Majesty the 8/18th day of July, 1670, give out commissions to so many privateers as you shall judge sufficient fully to redress the injury and satisfy such of our subjects as have been endamaged thereby.

You are hereby empowered thus to act not only in the behalf of our subjects upon our island of Jamaica when so injured, but also of all others our subjects in the West Indies when so injured.

Jamaica: Dec. 31, 1674.

#### 1001. DEMAND RETURN OF ENGLISHMEN HELD IN MEXICO <sup>28</sup>

Whereas it has been represented unto us that several of our subjects are kept in slavery and barbarously used at Mexico, la Vera Cruz, and other parts of the Spanish West Indies; you are upon your arrival in Jamaica to send to the governors of those places and to demand of them such of our subjects as are detained there, and to use your utmost endeavors that they be set at liberty.

Jamaica: 1689-92.

#### 1002. ENCOURAGE SPANISH TO SHAKE OFF FRENCH RULE

The kingdom of Catalonia having submitted to King Charles the Third and received him as their rightful sovereign, and it ap-

<sup>28</sup> On Nov. 10, 1686, fifty-four English subjects captured at Triste and imprisoned in Mexico and Los Angeles petitioned the Duke of Albemarle for re-

pearing to us by the advices from those parts that there is a very good disposition in Aragon and Valentia to enter into the same measures, we cannot but think this juncture so very proper and favorable for inviting and encouraging the Spaniards in the West Indies to shake off the French servitude and follow the example of their friends in Old Spain that it ought not to be neglected as being a matter of the greatest importance to us and our allies. In case therefore you shall find any disposition in the Spaniards in America to declare for King Charles the Third, you are by all proper means to encourage them therein, giving them assurances of assistance and protection upon the first notice that can be sent of it to Europe, and for that purpose you are to disperse the advertisement and declaration herewith sent you upon the coast of Hispaniola, Cuba, and of the other dominions of Spain in the terra firma or elsewhere as you shall judge best for the publication thereof, together with the letters of the King of Spain and other papers that accompany it, which you are to do at such times as you think most proper and convenient for promoting this service. And you are particularly to assure them that in case they desire it, we shall be ready upon the first notice to send them assistance both by ships and land forces with arms and ammunition and other necessaries to be landed at such places and employed in such manner as may be of the greatest use for resaving them from the yoke of France, and restoring their trade to the ancient channel between Old and New Spain.

You are also to let such as are well disposed know that King Charles the Third, their natural sovereign, is taking measures for sending with all expedition to the principal parts of the West Indies succors of natural Spaniards with military and civil officers for their assistance and the good government of those parts in his own royal name, and is likewise providing for the ecclesiastical government in the manner accustomed.

You are from time to time to give a particular account to one of our principal secretaries of state of all you shall do in this matter and what progress you make and how you find the Spanish disposed, as also whether they are willing to receive any of our forces and

lief. In 1687 Captain Spragg in H.M.S. *Duke* sailed to Campeachy and secured the release of seventy-one prisoners. Similar difficulties continued over a period of years. *Cal. State Paps., Col., 1685-88*, §§ 986, 1156, 1192, 1382.

join with them and what assistance they want and at what time and place they expect them.

Jamaica: Jan. 14, 1706.

### 1003. TRADE WITH SPANISH DOMINIONS DURING WAR

But whereas the States General of the United Provinces have represented unto us the advantages and conveniences of the trade with Spain in the West Indies, upon consideration thereof we have thought fit to approve of their proposal and to continue the trade and commerce with the Spaniards in these parts during this war in all commodities excepting stores of war and ammunition and such commodities as are prohibited by law to be carried from our plantations directly to any foreign country; you are therefore to permit and suffer our subjects freely and openly to carry to any place or territory under the dominion of Spain in America all such merchandises and commodities as might have been carried thither before the war; provided there be not among them any stores or ammunition of war, which you must be very careful to hinder; and you are likewise to permit our subjects to bring from the Spanish dominions in America any merchandise or goods of those parts; and the Dutch having promised to enjoin their privateers in those parts not to disturb our subjects in this trade, you are in like manner to require all privateers under your jurisdiction not to molest any of the Dutch in their trade to and from the Spanish dominions, except only in case of their carrying stores and ammunition of war; but as the reasons inducing us and the States General to this resolution are peculiar to the Spanish trade, and respect only the Spanish nation, we charge and require you to take as much care as is possible that the French may receive no benefit by this indulgence.<sup>29</sup>

Barbados: 1707-15.

Leeward Is: 1711-15.

Jamaica: 1710-15.

Virginia: 1707-10.

<sup>29</sup> A circular letter in almost identical words with this instruction was sent by Secretary of State Nottingham, Feb. 18, 1704, to the governors of Barbados, Bermuda, Jamaica, the Leeward Is., Maryland, Massachusetts and New Hampshire, New York and New Jersey, and Virginia, the proprietors of Carolina, and the governors and companies of Connecticut and Rhode Island. C. O. 324: 8, pp. 373-4; *Cal. State Pap.*, Col., 1704-5, § 116.

**1004. TAKE POSSESSION OF SANTA LUCIA**

Whereas we have understood by your letters that some foreigners, French and others, have without our leave or authority made a settlement within our island of Santa Lucia, where they have built houses and pretend themselves to be the only possessor and proprietor thereof; and we being well satisfied of our rights of sovereignty over the said island, as well by the title of first discovery and possession as by legal purchase from the natives, whereof a formal conveyance was remaining in the hands of our right trusty and well-beloved William, Lord Willoughby of Parham, our late governor in chief of those islands; our will and pleasure is that you forthwith give order to the captain of our frigate that shall attend our service in that our government that he fall down with his ship as soon as conveniently may be to our said island of Santa Lucia, and that if it shall be requisite, you cause a fit number of men to be put on board with directions that some of the ship's company, either alone or with the men appointed by you, do go on shore and by proclamation or otherwise renew our claim to the said island by retaking possession thereof and by erecting such ensigns of our sovereignty in several parts of our said island as shall be most public and durable; and that having given notice hereof to all foreigners he shall find upon the place, he remove their settlements and possess himself of their habitations, unless they shall be willing to submit unto us and to acknowledge our sovereignty over the said island. And you are further in the best manner you can upon all occasions when it shall consist with our service to renew our said claim and possession, giving notice hereof from time to time to the governors and other officers of his Most Christian Majesty in those parts and to all others whom it may concern.

Barbados: March 19, 1686.

**1005. DISLODGE ALIENS FROM NEUTRAL ISLANDS**

If any the subjects of a foreign prince now in war with us have already planted themselves upon any of the islands of Santa Lucia, Dominica, St. Vincent, or Tobago, or shall hereafter attempt to do the same, you are to endeavor with force to dislodge and remove them and also to prevent what in you lies such attempts for the

future, and upon all occasions effectually to assert and maintain the right of the crown of England to the said islands; and in order to the further asserting our right to the said islands exclusive of all others, AND to hinder the settlement of any colony there, you are to give notice to any foreigners that shall pretend to make such settlement that unless they shall remove within such time as you in your discretion shall assign, you shall be obliged to dispossess and send them from off the said islands.

A—Omit NOW IN WAR WITH US. Omit TO . . . AND and substitute: “to assert our right to the said islands exclusive of all others, and in order”.

Barbados: 1702-15; 1715-67 A.

#### 1006. ORDER BRITISH TO EVACUATE NEUTRAL ISLANDS

Whereas the French for some years have claimed a right to the island of Santa Lucia and do insist that the right to the islands of St. Vincent and Dominica under your government is in the Caribbeans now inhabiting the same; although we have an undoubted right to all the said islands, yet we have thought fit to agree with the French court that until our right shall be determined, the said islands shall be evacuated by both nations; it is therefore our will and pleasure and you are accordingly to signify the same to such of our subjects as shall be found inhabiting any of our said islands, that they do forthwith quit the same until the right shall be determined as aforesaid and that they do comply with this our order within thirty days from the publication thereof in each of the said islands respectively under pain of our highest displeasure; and you are to use your best endeavors that no ships of our subjects or of any other nation do frequent the said islands during the time aforesaid except only for wood and water. But it is our will and pleasure that you do not execute this our order until the French governor of Martinique shall have received the like directions from the French court and shall jointly with you put the same in execution without any exception. And you are hereby further ordered to transmit to us by the first opportunity a full account of your proceedings, as likewise of those of the French in this behalf, taking care by all opportunities to inform yourself whether our subjects and those of the French king do punctually comply with the true

intent and meaning of this agreement until such time as the right to the said islands shall be absolutely determined as aforesaid.

Barbados: 1732-56.

#### 1007. ASSERT ENGLISH RIGHTS IN VIRGIN ISLANDS

And forasmuch as we have understood by your letter to the Lords of our Committee of Plantations dated the eleventh of November last<sup>30</sup> that the Danish governor of St. Thomas has committed divers abuses to the prejudice of our subjects and that upon representing the same to our good brother, the King of Denmark, we have received a letter directed to the said governor wherein the said king doth not only disapprove of these proceedings but hath expressly commanded him to cause satisfaction to be forthwith made in due manner; you are therefore by the first conveyance to cause the said letter herewith sent you to be delivered to the said governor or to the commander of St. Thomas for the time being that full satisfaction may be made accordingly; and we do likewise give you full power and directions to assert our rights to all the Virgin Islands so as that the Danes be not permitted to settle in any of them except St. Thomas. And if they shall not submit to our right of sovereignty wherein they be given to understand that the King of Denmark hath no good title to St. Thomas itself, and that [sic] you inform us with all convenient speed of any settlement that shall hereafter be undertaken or attempted to be made by the Danes or any other nation within the said islands in order to receive our further pleasure in that behalf.

Leeward Is: May 7, 1683.

#### 1008. RESTORE TORTOLA TO THE DUTCH

And whereas the island of Tertola [Tortola], one of the Virgin Islands within the limits of your government, was either taken by our forces during the late war with the States General of the United Netherlands or was otherwise brought under our protection, the restoration of which island is now demanded of us by the said States General in pursuance of our treaties with them; you are with all convenient speed after your arrival in those parts to restore or

<sup>30</sup> See *Cal. State Paps., Col., 1681-85*, § 777, i-iv.

cause to be restored the said island unto such person or persons as shall have sufficient procuration or authority to receive the same, in the same state and condition as near as may be wherein it was heretofore delivered unto our late governor, Gov. Sir William Stapleton, so as nevertheless all our English or other subjects may be first permitted to transport themselves, their families, and goods unto such part of our dominions as they shall desire.

Leeward Is: 1686-89.

#### 1009. PREVENT FOREIGN SETTLEMENT IN VIRGIN ISLANDS

It having been represented unto us that some foreigners endeavor to settle on Crab Island, ONE of the Virgin Islands under your government, our will and pleasure is that you assert our right to all the Virgin Islands so as that the subjects of any foreign prince or state whatsoever be not permitted to settle in any of the said islands except St. Thomas, which has been for some time in possession of the subjects of the King of Denmark, who are likewise to be given to understand, in case they shall at any time act in prejudice to our right of sovereignty in those islands, that the King of Denmark hath no good title to St. Thomas ITSELF; and you are to inform us with all convenient speed of any settlement that shall at any time hereafter be undertaken or attempted to be made by the subjects of any foreign prince or state whatsoever within the said islands in order to receive our further pleasure therein.

A—Omit from beginning through ONE and substitute: "In case any foreigners should be settled or endeavor to settle on Crab Island, or other".

B—Omit WHO . . . ITSELF.

Leeward Is: Dec. 5, 1694-1702; 1702-53 A; 1753—Rev. A, B.

#### 1010. INVESTIGATE DAMAGE TO FRENCH AT ST. CHRISTOPHER

And whereas complaints have been made by the French ambassador here of great spoils committed by the English upon the plantation, houses, and goods in the French part of the island of

St. Christophers after their having notice of the peace and before the delivery of the same to the French, the damages arising from whence are by them esteemed to amount to a great sum and reparations accordingly demanded; his Majesty's will and pleasure is that you make exact inquiry into the truth of that matter and the grounds and reasons thereof; and if you find any such thing to have been done, that you use all proper means to oblige the persons who have committed those injuries to make such satisfaction for the same as may be reasonable, giving an account of the matter and of your proceedings therein unto his Majesty and his foresaid Commissioners for Trade and Plantations.

Leeward Is: 1699-1702.

#### 1011. HINDER ILLEGAL TRADE WITH FOREIGN WEST INDIES

It having been represented to us that clandestine and illegal trade has been and still continues to be carried on by several persons in our Leeward Islands to Curaçoa and St. Thomas, by which means the French islands and their privateers are furnished with goods and provisions to the great prejudice of our subjects; it is therefore our will and pleasure that upon your arrival you make strict inquiry into that matter and [if] you find any persons under your government concerned in such illegal trade that you cause them to be prosecuted according to law, and that you do your utmost for preventing the like for the future; and whereas a trade has been frequently carried on with Martinique by means of their flags of truce, for preventing thereof, you are to take all possible care that when any flags of truce shall arrive at any of our islands under your government they be not permitted to trade with any of our subjects during their stay there or allowed to go on shore to examine the strength and condition of our said islands; and you are further to take care that no flag of truce, either sent from the French islands or which you may at any time have occasion to send to them, do take more provisions on board than what are barely necessary for the voyage.

Leeward Is: 1711-15.

1012. CAPTAIN WRIGHT'S SQUADRON (I) <sup>81</sup>

Whereas we have thought it necessary for the preservation and defense of our islands, colonies, and plantations in America against the French king and his subjects to send a squadron of ships under the command of our trusty and well-beloved Lawrence Wright, Esquire, unto those parts, together with a regiment of foot which we have appointed for this service, and the said Lawrence Wright having orders to sail forthwith to our island of Barbados; you are upon their arrival there to take all necessary care with the advice of our council in that island as well for the refreshing of the said regiment as for the procuring intelligence of the enemy and of the condition and posture they shall be in.

Whereupon you are with the advice of our council to send on board the said squadron or under convoy thereof such further supply of men and provisions as the condition and safety of our islands under your government shall permit, according to the intelligence you shall receive upon your arrival in Barbados; after which the commander of our said squadron is ordered to proceed to such of our Leeward Caribbee Islands as by the advice of you and our council of Barbados upon the best intelligence that can be got of the enemy shall be thought most conduced to our service, staying no longer at Barbados than shall be absolutely necessary for refreshing the said regiment and taking with him such men and provisions as you and our said council shall think fit.

You are by all opportunities to correspond with the governors of our Leeward Caribbee Islands and Jamaica, to the end you and they may be the better informed of the strength of the enemy at sea and land and the motion of their fleets, and to be assisting to him or any other of our colonies in America to the utmost of your power.

And whereas we have given orders that in case it happen (which God forbid) that all of our Leeward Islands should upon or after the arrival of our said squadron be in the possession of our enemies and that the commander in chief of our said squadron shall not think it requisite for our service to remain there or to attempt any-

<sup>81</sup> For brief accounts of Wright's expedition see Josiah Burchett, *Memoirs of Transactions at Sea During the War with France beginning in 1688 and Ending in 1697* (London, 1703), pp. 110-123; David Hannay, *A Short History of the Royal Navy, 1217-1815* (1909), II, 69-72.

thing against our enemies in those parts, he do then without delay return to our island of Barbados and consult with you and our council there what may be most advisable for him to do, either in staying there or going to any other of our plantations with all or any number of our ships for their defense and the annoyance of our enemies; you are therefore in such case with the council of our island of Barbados to give the commander in chief of our said squadron the best advice you can for his further conduct and proceedings as aforesaid.

Barbados: Dec. 6, 1689.

### 1013. CAPTAIN WRIGHT'S SQUADRON (II)

Whereas we have thought it necessary for the defense and preservation of our colonies and plantations in America and to oppose the French king and his subjects to send a squadron of ships under the command of our trusty and well-beloved Lawrence Wright, Esquire, into those parts with directions that, having first taken on board a regiment of foot with an engineer and two miners which we have appointed for this service together with six months' provisions to serve the said regiment upon their arrival in the West Indies, as also such stores of war as shall be provided by the officers of the Ordnance for the said service, he shall thereupon sail as wind and weather will permit to our island of Barbados, as well for the refreshment of the said regiment as to receive intelligence of the enemy and of the condition and posture they shall be in, and that having taken on board the said squadron or under his convoy such number of men and provisions as our governor and council of Barbados shall think requisite, he then sail to such of our islands under your government as upon the best intelligence he can get shall by the advice of our said governor and council of Barbados be thought most conduced to our service.

Our will and pleasure therefore is that upon the arrival of the said Lawrence Wright or the commander in chief of our said squadron at the Leeward Islands, you forthwith call a council of war to which you are to cause the said Lawrence Wright or the commander in chief of the said squadron to be summoned and to admit the said Lawrence Wright or the commander in chief of the said squadron to have a vote at the said council and precedence next

to yourself as often as the distance of the place where the said Lawrence Wright or the commander in chief of the fleet for the time being shall be, or our service, shall permit.

And you are by and with the advice of our said council of war or such others as you shall call from time to time to give all necessary directions to the said Lawrence Wright or the commander in chief of the squadron for the time being for the landing the said regiment of foot with the stores and provisions on board the said squadron and for attacking the enemy's colonies or doing anything else at land for the recovery or preservation of our islands under your government, or other annoyance of the enemy; the said Lawrence Wright and the commander in chief of the said squadron being also directed to act at sea against the enemy according to the advice of yourself and the said council of war and upon the application of yourself and the said council of war to spare such seamen for the land service as he shall judge necessary with safety to the squadron under his command.

Provided always, that you shall not upon any pretense whatsoever intermeddle with the discipline of our said squadron nor suspend place or displace any officers belonging to the same notwithstanding any former authority or instructions given to you in that behalf.

It being nevertheless our will and pleasure that the said Lawrence Wright or the commander in chief of our said squadron for the time being do not take upon him to send any of the ships under his command to cruise in those parts or to serve as convoys without giving notice to you and the said council of war, and being satisfied from you and the said council of war that our service does not absolutely require the attendance of the said ships at the islands under your government.

You are to use your utmost endeavors to preserve all our Leeward Islands whereof you are governor under our obedience and to recover our island of St. Christopher's from the enemy if it shall be in your power, and to do all that in you lies to subdue or destroy all or any of the colonies, ships, or subjects of the French king as opportunity shall offer.

Lastly you are by all opportunities to correspond with the governors of our islands of Barbados and Jamaica to the end you and they may be the better informed of the strength of the enemy at sea and land and the motion of their fleets, and in case of necessity

to be assisting to them or any other of our colonies in America in such manner as the condition and safety of our islands under your government will permit.

Leeward Is: Dec. 6, 1689.

#### 1014. PROPOSED ATTACK ON GUADELOUPE <sup>32</sup>

Whereas by our instructions dated the 16th day of December last,<sup>33</sup> you are directed to do all that in you lies to subdue or destroy all or any of the colonies, ships, or subjects of the French king as opportunity shall offer; and whereas our trusty and well-beloved David Ganespoell [Zanespool?] having been long conversant in the Caribbee Islands belonging to the said French king is commissionated by us as a reformed captain with orders to repair to Leeward Caribbee Islands under your government and to attend our service in those parts; you are upon the arrival of the said David Ganespoel to advise with him concerning the attacking any of the French Caribbee Islands, particularly the islands of Guadeloupe and Grand Terre, and to proceed therein according to your discretion, taking it as an especial direction from us that all persons under your command who shall attack or possess themselves of all or any part of the said islands of Guadeloupe or Grand Terre [are] not to burn or destroy any of the houses, plantations, stock, materials, or utensils belonging to the said David Ganespoel or to any such person or persons whom the said David Ganespoel shall declare to you to be his relations or kindred or otherwise allied to him. But that the said houses, plantations, stock, materials, and utensils be preserved and left in the possession of the persons abovementioned as long as they shall continue under our obedience or that the said persons be permitted, if they shall desire it, to transport the said stock, materials, utensils, and product of their said plantations to any island to us belonging in America there to be disposed of as they shall think fit.

Leeward Is: Jan. 23, 1690.

<sup>32</sup> The entry of this instruction in C. O. 158: 4, pp. 181–183, is prefaced by the following memorandum: “Captain David Ganespoel formerly an Inhabitant of Guardaloupe, havinge offered his services to His Majestie in the Leeward Islands, A Brevet of Capt. of Foot is given to him, dated the 23d January 1689/90 and Countersigned by the Earl of Nottingham. And the following Instructions are sent to Coll. Codrington concerning him.”

<sup>33</sup> Dec. 6? See above, § 1013.

## 1015. EMPLOY FRIGATES TO ANNOY THE FRENCH

Whereas it is your duty to take all opportunity of annoying the French upon Petit Guaves,<sup>34</sup> Hispaniola, and other parts near your government, and we have for that purpose and for the service of that our island thought fit to send our frigate the *Faulcon* thither and to direct the *Mordaunt* to remain in those parts until further order; we do hereby authorize and require you to employ the said frigates as there shall be occasion against the French, together with such land forts [forces?] as you shall be able to assemble together on that service; for which this shall be your warrant.<sup>35</sup>

Jamaica: Nov. 24, 1692.

1016. CAPTAIN WILMOT'S EXPEDITION<sup>36</sup>

Whereas we have thought necessary for the defense and preservation of our colony and plantation of Jamaica and for opposing the French in those parts to send thither a squadron of ships under the command of our trusty and well-beloved Robert Wilmot, Esquire, as also a regiment of foot consisting of 1200 private soldiers besides officers; our will and pleasure is that upon the arrival of the said Robert Wilmot with our ships and regiment at our said island you do call a council of war, wherein you are to consider and determine the proper measures for securing the island against the French or annoying them upon their own coast, either by sending the squadron and regiment, or any part thereof, to Petit Guaves or coast of Hispaniola, with such of the militia of Jamaica as may be spared for

<sup>34</sup> Petit Goave was at this time the capital of the French colony on Hispaniola (Haiti).

<sup>35</sup> At the end of the draft of this instruction in C. O. 137: 44, no. 27, is the following memorandum: "There must be an order sent to the commanders of these frigates to obey the governors in this expedition which will otherwise be ineffectual. [§ 636 above, was not yet in force.] Sir Francis Wheeler's instructions to be altered as to his sending for the *Mordaunt*, himself sending any other frigates to Jamaica."

<sup>36</sup> This expedition under Captain Wilmot and Colonel Luke Lillingston accomplished nothing beyond the destruction of considerable French property on Hispaniola. Wilmot proved corrupt and inefficient and the squadron was decimated by an epidemic during which Wilmot died on the voyage home. For the ensuing controversy see Josiah Burchett (Secretary to the Admiralty), *Memoirs of Transactions at Sea During the War with France beginning in 1688 and Ending in 1697* (1703), pp. 205-321; Col. Luke Lillingston, *Reflections on Mr. Burchett's Memoirs, or Remarks on his Account of Capt. Wilmot's Expedition to the West Indies* (London, 1704); and [J. Burchett], *Mr. Burchett's Justification of his Naval Memoirs in Answer to Reflections made by Col. Lillingston . . .* (1704).

that service or otherwise, as shall be thought fit by a council of war, in which or any other expedition you are to command in chief, if you shall be present, and in your absence, if at sea, the commander of the squadron.

And in case the fort of Petit Guaves be reduced to our obedience you are so to dispose matters that possession may be kept thereof, taking care however not to communicate to the Spaniards any such intention of keeping the same, the commander in chief of our squadron being also directed upon his arrival near that coast in his way to Jamaica to give notice thereof to the governor or commander in chief of the island of Hispaniola and of the city of St. Domingo and to desire his assistance as well by ships as by the conjunction of the forces or militia under his command for the destroying the common enemy on the said island and islands thereunto belonging; wherein we are assured that the King of Spain has given all necessary directions, which we hope will arrive so timely that the due preparations may be made by the Spaniards for this attempt, either upon the first arrival of our squadron upon the coast of Hispaniola or afterwards.

And whereas it is our pleasure that councils of war be called as often as the occasion shall require and that the same shall consist of yourself and the commander in chief of the said squadron, with six sea captains and the colonel, major, and captains of the said regiment, as often as the said persons respectively shall be upon the place; you or the commander in chief of the said island for the time being are to preside at the said councils of war and in your absence, if at sea, the commander of the said squadron, and in the absence of you and the commander of the said squadron the colonel or commander in chief of the said regiment.

And in case the said council of war be held in or near Jamaica, there shall be added to it the chief officers of the militia of that island, not exceeding six in number, as often as the matters to be debated shall relate to the defense of the said island.

For the greater encouragement of our officers, seamen, and land forces in the performance of this service we do hereby declare that all the spoil that shall be taken from the enemy shall be divided among them according to the annexed proportion,<sup>87</sup> except only guns, arms, and ammunition, ships of war, and sails, cordage, anchors, ordnance, and naval stores, which we have reserved for our service.

<sup>87</sup> Printed in J. Burchett, *Memoirs of Transactions at Sea*, pp. 310-315.

And you are to give all necessary directions to the said Capt. Wilmot or the commander in chief of the squadron for the time being and to the colonel or commander in chief of the said regiment for attacking the enemy's colonies or doing anything else at land for the preservation of our said colony under your government or any annoyance of the enemy, either at Petit Guaves or upon the coast of Hispaniola; the said Capt. Wilmot and the commander in chief of the said squadron being also directed to act at sea against the enemy according to the advice of yourself and the council of war.

Provided always that you shall not upon any pretense whatsoever intermeddle with the discipline of our said squadron, nor suspend place or displace any officers belonging to the same, notwithstanding any former authorities or instructions to you in that behalf; it being nevertheless our will and pleasure that the said Robert Wilmot or the commander of our said squadron for the time being do not take upon him to send any of the ships under his command to cruise in those parts without giving notice to you and the said council of war and receiving your and their advice for so doing.

You are to take care that upon landing our said regiment at Jamaica convenient quarters be provided for them and that they be so disposed as may be most advisable for the security of the island, for the defense whereof we are pleased to continue the same in those parts until further order.

You shall upon all occasions be assisting to John Murray, Esquire, in the execution of his charge as commissary general of our stores and musters, paymaster, and judge advocate of our forces for that expedition, and in case of his death to his assistant until some other person shall be appointed by you for that employment.

And you are from time to time as you shall have an opportunity to transmit unto us an account of your proceedings in the execution of these our instructions and in pursuance of the trust reposed in you.

Jamaica: Dec. 23, 1694.

#### 1017. EXPEDITION AGAINST THE WEST INDIES

Having been called upon by repeated provocations to declare war against Spain, we are determined by God's assistance in so just

a cause to vindicate the honor of our imperial crown to revenge the injuries done to our subjects, to assert their undoubted rights of commerce and navigation, and by all possible means to attack, annoy, and distress a nation that has treated our people with such insolence and barbarity.

1. We have therefore given orders for the equipping and setting forth an expedition against the territories of the Catholic King in the West Indies, which will consist of a large squadron of our ships of war and of a considerable body of our land forces with a suitable train of artillery, store ships, and transports; the fleet to be commanded by our trusty and well-beloved Edward Vernon, Esquire, vice admiral of the Blue Squadron of our fleet, and commander in chief of our ships employed or to be employed in the West Indies, and the land forces by our right trusty and well-beloved Charles, Lord Cathcart, major general of our forces, whom we have appointed our general and commander in chief of the said expedition.

We have also determined to raise a body of troops in our colonies on the continent of North America to join those to be sent from hence at a particular rendezvous which will be appointed for that purpose and to act in conjunction with them under the command of our said general in such dispositions as shall be made for our service. And although we have not thought fit to fix any particular quota for our province of — under your government, because we would not set bounds to their zeal for our service, yet considering the great number of inhabitants in our said province and that they have of late years been much increased, we doubt not in the least but they will exert themselves upon this occasion as far as the circumstances of the colony will allow, being assured they cannot render a more acceptable service to us and to their mother country or do anything more essential for their own interest.

2. It is our will and pleasure that you do with the utmost zeal and diligence promote and encourage so necessary a disposition, for which purpose you will forthwith summon all our councillors to attend you in council and communicate to them these instructions that they may be the better able to advise and assist you in the execution of them and in the appointing of such officers for the command of the several companies to be raised as are known to be men of interest in the country and well disposed to our service.

3. It is our intention that the troops to be raised in our province

of — shall consist of companies of one hundred men each, including four sergeants, four corporals, and two drummers, besides their commission officers, which shall be one captain, two lieutenants, and an ensign. But we have reserved to ourselves the nomination of the field and staff officers, and of one lieutenant for each company, who will be men of experience in service and sent from hence for their assistance to meet them at the general rendezvous appointed in the West Indies. Your troops will likewise be furnished with one sergeant for each company by draughts of old soldiers out of the four independent companies at New York, for which purpose the necessary orders will forthwith be given. All the other officers are left to your nomination and you will receive blank commissions under our sign manual for them to be filled up with such persons as you shall think proper, taking the advice and even the recommendation of our council therein so far as may be consistent with our service and the dispatch requisite upon this subject. But if the number of blank commissions sent you upon this occasion shall happen to be more than the companies raised in your government do require, you are hereby directed to return the remainder by the first opportunity to one of our secretaries of state and you shall return a list of the officers whose names you shall have inserted in any commissions by virtue of these our instructions, to whom the same shall be delivered free of all charges and without fee, gratuity, or reward upon pain of our highest displeasure.

4. You are likewise directed forthwith to issue a proclamation giving notice of our royal intentions in this behalf, inviting our good subjects cheerfully to enlist in our service and assuring them that the troops to be raised in pursuance of these our instructions, as well officers as soldiers, shall enter into our pay and enjoy the same rank and pay with the rest of our British troops so long as they shall continue in our service.

5. And that you may be the more fully informed of our pleasure with respect to the troops to be raised in yr. ur province, we have thought fit to declare that all the sergeants, corporals, drummers, and private soldiers shall be entitled to receive our pay from the respective days on which they shall be enlisted pursuant to such certificates as you shall judge sufficient for that purpose and that the commission officers shall enter into pay from the day their commissions bear date. And they shall take post and rank in the

respective battalions into which they shall be formed according to the date of the certificates by which it shall appear when each captain respectively had completed his levies.

6. And as a further encouragement to such officers and soldiers as shall engage in the present expedition, you may assure them in our royal name that the soldiers shall not only be clothed and armed according to the samples that will be sent herewith and furnished with tents and entertained in our pay, but that after their arrival at the general place of rendezvous, they shall be provided for in every other respect as our British troops; that they shall likewise have their just share and proportion of all plunder or booty gained or taken from the enemy according to their services; and if by the blessing of God upon our arms any of the enemies' lands or settlements shall fall into our hands, our American troops shall have a share thereof as well as the rest of our forces in preference to all other persons that shall not have engaged in the present expedition.

7. And we do further declare that so soon as the present expedition shall be determined, whatever the success thereof may be, all the troops raised in our American colonies for this purpose, as well officers as soldiers, shall have free leave to return to their respective provinces and shall be transported thither at our expense, except those only that shall choose for their own advantage to settle or remain in such places or garrisons as may fall into our hands, where they shall receive all due encouragement and the soldiers, whether they remain there or return home after the said expedition, shall retain their arms and clothing.

8. But we trust and expect that our assembly of — will provide victuals, transports, and all other necessaries for the troops to be raised in our province, except their clothes, tents, arms, ammunition, and pay, till their arrival at the general rendezvous in the West Indies, from which time the said transports shall come into our pay. And you are hereby directed without loss of time to recommend to the said assembly in our name to make such provision that the expedition may not be retarded for want thereof.<sup>88</sup>

9. We recommend to you also to engage such persons within your province in the present expedition, both for the transport and land service, as have at any time been resident in or have a particular knowledge of the Spanish ports, coasts, or settlements in the West Indies, and you may assure such as are able pilots for the said

<sup>88</sup> But see below, § 1018.

coasts that their service shall meet with all suitable encouragement.

10. And that nothing may be wanting on our part towards the promoting and completing of this important design, we have thought fit to appoint our trusty and well-beloved Major General Alexander Spotswood to be quartermaster general of all our forces in this expedition, and to take upon him the command, conduct, discipline, disposition, and embarkation of our American troops so soon as they shall be raised. You are therefore from time to time to correspond, confer, and advise with the said Major General Alexander Spotswood in all matters that may tend to the promoting these levies and the completion of our design.

11. We have also thought fit to dispatch our trusty and well-beloved Colonel William Blakeney from hence whom we have appointed to be adjutant general of all our forces to be employed in the present expedition with samples of clothes and also with arms, ammunition, and other necessaries for the use of our American troops; and whatever may be further wanting shall be sent them either before their embarkation or shall meet them at the general place of rendezvous in the West Indies. And as we repose especial trust and confidence in the said Col. Blakeney, it is our pleasure that you should admit him also into all your consultations relative to these instructions whenever he shall be within your precincts.

12. We depend upon your punctual compliance with these our instructions; we recommend the several matters therein contained to you our governor, to our council, to our assembly, and to all other our good subjects in — so far as may concern them respectively. And we do expect that you should by the first and every other occasion that may offer, send us a full and clear account of your proceedings herein by letter directed to one of our secretaries of state.

Circular: Connecticut, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, [Virginia?]: <sup>89</sup> April 2, 1740.

#### 1018. COST OF PREPARING WEST INDIES EXPEDITION <sup>40</sup>

Whereas we have been graciously pleased to charge ourselves with the clothing, arming, and pay of the troops to be raised in

<sup>89</sup> I can find no record that this instruction was sent to the lieutenant governor of Virginia, although this colony was certainly one of those from which volunteers were expected.

<sup>40</sup> Headed "Secret Instruction".

our province of — under your government and have likewise given them many other great encouragements to enter into our service as by your instructions upon that subject will appear, and therefore have reason to hope that the assembly of our said province will make no difficulty of complying with our eighth instruction to you,<sup>41</sup> whereby you are ordered to recommend to them to provide victuals, transports, and all other necessaries for the troops to be raised by them, except their clothes, tents, arms, ammunition, and pay, till their arrival at the general rendezvous in the West Indies; however, that this expedition may not be defeated for want of an early and sufficient supply of transports and provisions, in case our said province shall heartily exert themselves in the execution of the rest of our orders and shall within a reasonable time raise a large body of men for our service, if they cannot be induced forthwith to comply with our orders herein, you are hereby empowered to engage transports and secure provisions for the purpose aforesaid upon the best terms you are able and to draw upon the Commissioners of our Navy for the payment thereof.

Circular: Connecticut, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, [Virginia?]:<sup>42</sup> April 2, 1740.

<sup>41</sup> See above, § 1017, par. 8.

<sup>42</sup> See above, note 39.

## PART XVII

### REPORTS AND CORRESPONDENCE

#### 1019. REPORT ON CONDITIONS IN JAMAICA

You shall as often as you have opportunity send us an account of the present number of planters, masters, servants, and slaves, according to the best information you can have, as also what the wants and defects of the place are, and what you find are the chief products of the said island, what new improvements the industry or invention of the planters have afforded, where the most probable advantages are to be obtained to that our island by trade, and which way you conceive we may contribute to them.

Jamaica: 1670-74; (§§ 1020, 1021, 1028).

#### 1020. REPORT ON WANTS, DEFECTS, AND IMPROVEMENTS (I)

And you are likewise from time to time to give us by one of our principal secretaries of state and to our Council [or, Committee] of Trade and Foreign Plantations an account of the wants and defects of the said [colony, island, islands] and territories under your government, what the chief products of them are, what new improvements the industry or invention of the planters hath afforded, what probable advantages may be gained by trade, and which way you conceive we may contribute towards them.

##### A—Omit BY . . . STATE.

Barbados: 1672-1702 A; (§ 1021).	Leeward Is: 1671-1702 A; (§ 1021).
Bermuda: 1686-1702 A; (§ 1021).	New England: 1686-89.
Jamaica: (§ 1019); 1674-80; (§ 1021).	Virginia: 1679-85; (§ 1021).

#### 1021. REPORT ON WANTS, DEFECTS, AND IMPROVEMENTS (II)

You are likewise from time to time to give unto us and to our Commissioners for Trade and Plantations as aforesaid an account

of the wants and defects of our said province, WHAT are the chief products THEREOF, what new improvements are made therein by the industry of the inhabitants or planters, and what further improvements you conceive may be made or advantages gained by trade, and which way we may contribute thereunto.

A—Omit WHAT . . . THEREOF.

Bahamas: 1729—Rev.	New Hampshire: 1702—Rev.
Barbados: (§ 1020); 1702—Rev.	New Jersey: 1702—Rev.
Bermuda: (§ 1020); 1702—Rev.	New York: 1701—Rev.
Georgia: 1754—Rev.	North Carolina: 1730—Rev.
Grenada: 1771—Rev.	Nova Scotia: 1749—Rev.
Jamaica: (§§ 1019, 1020); 1701—Rev.	St. John: 1769—Rev.
Leeward Is: (§ 1020); 1702—Rev.	South Carolina: 1720—Rev.
Maryland: 1698—1703 A; 1703—15.	Virginia: (§ 1020); 1698—1702 A; 1702—Rev.
Massachusetts: 1702—Rev.	

### 1022. REPORT ON THE PROVINCE AND ITS PEOPLE

And the better to enable us to settle and establish a civil government in our said Bahama Islands, you are to give us and to our Commissioners for Trade and Plantations as aforesaid by the first opportunity and afterwards as often as may be a true state of the said islands [province], particularly with respect to the number and qualifications of the people that either are or shall resort thither, what number it may be proper to constitute the assembly of, what persons are proper and fit to be judges or sheriffs, and any other matter or thing that may be of use to us in the establishing a civil government as aforesaid.

A—Omit from beginning through us and substitute: "And the better to enable his Majesty to complete what may be further wanting towards the establishing a civil government in the said province, you are to give unto his Majesty by one of his principal secretaries of state".

Bahamas: 1718—29.

Nova Scotia: 1719—49 A.

### 1023. QUESTIONS ABOUT THE PROVINCE TO BE ANSWERED

[1] And whereas it is highly necessary that we be fully informed of the true state and circumstances of our island under your govern-

ment in every particular, you are therefore as soon as possible to make diligent inquiry and report to us by one of our principal secretaries of state:

[2] What is the size and extent of the island under your government?

[3] What number of acres is it computed to contain?

[4] What is the nature of the soil and climate? And if it differs in these circumstances from other islands in the West Indies, in what that difference consists?

[5] What rivers there are and of what extent and convenience to planters?

[6] What are the principal harbors, how situated, and of what extent and what is the depth of water and nature of the anchorage in each of them?

[7] What quantity of land is now under actual improvement and settlement? What are the chief articles of produce and culture, the annual amount of the quantity of each, and upon what terms and conditions do the inhabitants hold their lands, either of cultivation, rent, or personal service?

[8] What number of mills and other sugar works are now employed? And are those mills worked by wind, beast, or water?

[9] What is the quantity, nature, and property of the land uncultivated? How much of it is capable of culture? And what part thereof is private property?

[10] Whether the planters employ any land in feeding cattle and for raising stock and provision? If they do not, how are they supplied?

[11] Whether the island furnishes any wood proper for casks, timber for houses and sugar works or other purposes? If it does, of what kinds and what extent?

[12] What is the number of the inhabitants, whites and blacks, distinguishing each? And what number of the former is capable of bearing arms? And what number of the latter is annually necessary to be supplied in proportion to the land cultivated?

A—Omit paragraphs 1–4 and substitute: “And you are to report to us by our Commissioners for Trade and Plantations: what is the nature of the soil and climate of the province under your government? If it differs in these circumstances from our other southern [northern<sup>1</sup>] colonies, in what that difference consists? And what

<sup>1</sup> In the Quebec instructions.

beneficial articles of commerce the different parts of it are capable of producing?" Omit paragraphs 8, 10, and 11. At the end add: "What was the nature, form, and constitution of the civil government? What judicatures were there established? And under what regulations did the Spanish [French] inhabitants carry on their commerce?"

B—The same as A, but omit the addition at the end.

C—in par. 3 after or add: "English or French".

Dominica: 1770—Rev.

Quebec: 1763—75 A.

East Florida: 1763—73 A; 1773—Rev. B.

St. Vincent: 1776—Rev.

Grenada: 1763—71 C.

West Florida: 1763—Rev. A.

#### 1024. PREPARE REPORT ON JAMAICA'S CONDITION FOR PARLIAMENT

Whereas his Majesty has been graciously pleased in consequence of an address of the Honorable the House of Commons of the 24th of March last<sup>2</sup> to direct the Commissioners for Trade and Plantations to make inquiry during the recess of parliament into the present state of the island of Jamaica as to its strength, trade, and fortifications, and what law or laws have been made since the year 1734 relating to grants and for enforcing the cultivation of lands in that island, and also to inquire how far those laws (if any such there be) have been carried into execution and have proved effectual or insufficient for the encouragement of newcomers to settle in that island, and to what degree the number of white inhabitants is increased or diminished since the abovementioned time, and what quantity of well situated and fertile land remains uncultivated, you are therefore as soon as possible after your arrival to prepare an exact and full account of the several particulars mentioned in the said address (a copy whereof will be herewith delivered to you) and forthwith to transmit the said account to the Commissioners for Trade and Plantations to the end that they may be enabled to lay a full state of the whole before the House of Commons at the beginning of the next sessions of Parliament.

Jamaica: 1752—58.

<sup>2</sup> Commons Journal, XXVI, 504.

**1025. REPORT ON ECONOMIC POSSIBILITIES OF NOVA SCOTIA**

You are also to send the most exact account you can of the nature of the soil, what swamps there are in it, and whether these swamps do produce mast trees, or by draining may be made fit for raising hemp; what other products the country is capable of, and how the same may be best improved for the advantage of this nation; **WHAT** navigable rivers there are in the said province; and what number of Indians there are, and how many thereof are capable of bearing arms; and also what trade may be carried on with the said Indians for furs or otherwise.

A—Omit from **WHAT** to the end and substitute: “and what trade may be carried on with the Indians for furs or otherwise; what navigable rivers there are in the said province and what others fall into them”.

Nova Scotia: 1719-49 A; 1749-64.

**1026. REPORT ON MATTERS NECESSARY FOR GOVERNMENT IN NOVA SCOTIA**

And to the end that his Majesty may be the better enabled to complete what may be further wanting towards the establishing a civil government in the said province, you are to send unto his Majesty's Commissioners for Trade and Plantations by the first opportunity after your arrival there an exact account of the number and qualifications of the people there and with respect to any other matter or thing that may be of use in the completing a civil government as aforesaid.

Nova Scotia: 1752-56.

**1027. MAKE ANNUAL REPORT OF CONDITIONS IN VIRGINIA**

You shall according to your former instructions give once a year an account both to our Council of Trade and Plantations and likewise to the Commissioners and Farmers of our Customs here of

those several things you are directed by the 5th, 7th, and 8th articles.<sup>8</sup>

Virginia: Oct. 13, 1676.

### 1028. TRANSMIT ACCOUNT OF POPULATION

You shall SEND to us and to our Commissioners for Trade and Plantations BY the first CONVEYANCE an ACCOUNT of the present number of planters and inhabitants, MEN, women, and children, as well masters as servants, free and unfree, and of the SLAVES IN our said province, as also A YEARLY ACCOUNT of the increase or decrease of them, AND how many of them are fit to bear arms in the MILITIA of our said province.

A—Omit SEND . . . [first] ACCOUNT and substitute: "likewise soon after your arrival send an account unto us and our Committee for Trade and Plantations".

B—Omit SEND . . . [first] ACCOUNT and substitute: "likewise soon after your entrance upon the government of his Majesty's said province send an account unto his Majesty and the Commissioners for Trade and Plantations".

C—Omit BY . . . CONVEYANCE.

D—Omit BY . . . CONVEYANCE and substitute: "as soon as conveniently may be".

E—Omit BY . . . CONVEYANCE and substitute: "by the conveyance of any of our ships of war".

F—Omit MEN . . . SLAVES and substitute: "as well masters as servants and slaves".

G—After IN add: "every of the respective counties or districts of". Omit from MILITIA to the end and substitute: "respective counties or districts aforesaid."

H—Omit A YEARLY ACCOUNT and substitute: "an account once in every three years."

J—Omit from AND to the end.

Bahamas: 1729—Rev.

Barbados: 1672—73 D, F, J; 1673—80 D, F; 1680—1702 A; 1702—7 C; 1707—32 E; 1732—Rev.

Bermuda: 1686—98 C; 1698—1702 A; 1702—Rev. C.

Georgia: 1754—Rev. C.

Grenada: 1771—Rev. H.

Jamaica: (§ 1019); 1674—80 D, F; 1701—22 C; 1722—Rev.

Leeward Is: 1671—86 D, F, J; 1686—99 A; 1699—1721 C; 1721—28 E; 1728—53; 1753—Rev. H.

Maryland: 1698—1703 A, G; 1703—15 C.

Massachusetts: 1702—28 C; 1728—Rev.

New Hampshire: 1702—28 C; 1728—Rev.

<sup>8</sup> See above, §§ 151, 503.

New Jersey: 1702-8 C; 1708-27 E; 1727-  
Rev.  
New York: 1701-8 C; 1708-27 E; 1727-  
Rev.  
North Carolina: 1730-Rev.

Nova Scotia: 1749-Rev.  
South Carolina: 1720-30 C; 1730-Rev.  
Virginia: 1679-82 D, F; 1698-1702 A,  
G; 1702-10 C; 1710-28 E; 1728-Rev.

### 1029. KEEP ACCOUNT OF BIRTHS AND DEATHS

You shall also cause an exact account to be kept of all persons born, christened, and buried, and you shall yearly send fair ABSTRACTS thereof to us and to our Commissioners for Trade and Plantations as aforesaid.

A—Omit YOU . . . ABSTRACTS and substitute: “send a yearly account”.

Bahamas: 1729-Rev.  
Barbados: 1680-1702 A; 1702-Rev.  
Bermuda: 1686-1702 A; 1702-Rev.  
Georgia: 1754-Rev.  
Grenada: (§ 1030); 1771-Rev.  
Jamaica: 1701-2 A; 1702-61.  
Leeward Is: 1686-1702 A; 1702-Rev.  
Maryland: 1698-1703 A; 1703-15.

Massachusetts: 1702-61.  
New Hampshire: 1702-61.  
New Jersey: 1702-Rev.  
New York: 1701-3 A; 1703-Rev.  
North Carolina: 1730-Rev.  
Nova Scotia: 1749-Rev.  
South Carolina: 1720-Rev.  
Virginia: 1698-1702 A; 1702-61.

### 1030. REPORT INCREASE OR DECREASE OF INHABITANTS

You are from time to time to send unto us by our Commissioners for Trade and Plantations as aforesaid an account of the increase and decrease of the inhabitants, whites and blacks, and also an account of all persons born, christened, and buried.

Dominica: 1770-Rev.  
East Florida: 1763-Rev.  
Grenada: 1763-71; (§ 1029).

Quebec: 1763-75.  
St. Vincent: 1776-Rev.  
West Florida: 1763-Rev.

### 1031. REPORT ON PROCEEDINGS AND AFFAIRS IN PROVINCE (I)

And you are upon all occasions to send unto us BY ONE of our principal secretaries of STATE AND TO our Commissioners for Trade and PLANTATIONS a particular account of all your proceedings and of the condition of affairs within your government.

A—Omit BY . . . STATE.

B—Omit ONE . . . TO.

C—Omit AND . . . PLANTATIONS.

D—Omit AND . . . PLANTATIONS and substitute: "and the Lords of our Privy Council appointed a Committee for Trade and Foreign Plantations".

E—Add at the end: "and also a duplicate thereof to our Commissioners for Trade and Plantations for their information, except in cases of a secret nature."

Bahamas: 1729–52; (§§ 1032–1034); 1768–Rev. C, E.	New Hampshire: (§ 132); 1702–15 A; 1715–52; (§§ 1032, 1033); 1766–Rev. C, E.
Barbados: 1702–52; (§§ 1032–1034); 1767–Rev. C, E.	New Jersey: 1702–52; (§§ 1032–1034).
Bermuda: 1702–52; (§§ 1032–1034).	New York: 1686–97 D; 1697–1752; (§§ 1032–1034); 1770–Rev. C.
Dominica: 1770–Rev. C, E.	North Carolina: 1730–52; (§§ 1032–1034); 1771–Rev. C.
East Florida: (§§ 1033, 1034); 1773–Rev. C, E.	Nova Scotia: 1749–52; 1752 B; (§§ 1032–1034); 1766–Rev. C, E.
Grenada: (§§ 1033, 1034); 1771–Rev. C, E.	Quebec: (§§ 1033, 1034); 1768–75 C, E.
Jamaica: 1702–52; (§§ 1032–1034); 1767–Rev. C, E.	St. John: 1769–Rev. C.
Leeward Is: 1702–52; (§§ 1032–1034); 1767–Rev. C, E.	St. Vincent: 1776–Rev. C, E.
Maryland: (§ 132); 1703–15.	South Carolina: 1720–30 A; 1730–52; (§§ 1032–1034); 1774–Rev. C, E.
Massachusetts: 1691–97 D; 1697–1701; 1701–28 A; 1728–52; (§§ 1032–1034); 1771–Rev. C.	Virginia: 1679–90 D; (§ 132); 1702–52; (§§ 1032–1034); 1768–Rev. C.
New England: 1686–88 D; (§ 132).	West Florida: (§§ 1033, 1034); 1767–Rev. C, E.

## 1032. ALTERATION IN CORRESPONDENCE AND REPORTS, 1752<sup>4</sup>

Whereas the governors of such of our colonies and plantations in America as are more immediately under our government are, in particular cases as well as in general, directed and required by our instructions to transmit unto us by one of our principal secre-

<sup>4</sup> This circular instruction was issued in consequence of the increased powers conferred upon the Board of Trade by the order in council of March 11, 1752. See *Acts, Privy Coun., Col.*, 1745–66, § 168; *N. Y. Col. Docs.*, VI, 757–759; Arthur H. Basye, *The Lords Commissioners of Trade and Plantations, Commonly Known as the Board of Trade, 1748–1782*, pp. 69–80, especially pp. 71–73. This instruction refers in general to all other instructions relating to correspondence and reports and in particular to § 1031 which it definitely superseded. The rule for correspondence was repeated in subsequent general instructions as given in § 1033 until superseded in turn by § 1034.

taries of state and to our Commissioners for Trade and Plantations accounts from time to time of all their proceedings and of the condition of affairs within their respective governments; and whereas it doth appear to us that it will tend to the benefit of our said colonies and plantations, the ease and convenience of our subjects, and the greater regularity and dispatch of business if the correspondence be confined to and pass through but one channel; it is therefore our express will and pleasure that in all cases wherein by our instructions you are directed to transmit any particular or general accounts of your proceedings or of matters relative to the affairs of our province under your government, you do for the future transmit the same to our Commissioners for Trade and Plantations only, in order that they may be laid before us. Provided, nevertheless, and it is our express will and pleasure that whenever any occasions shall happen within our said province under your government of such a nature and importance as may require our more immediate direction by one of our principal secretaries of state, and also upon all occasions and in all affairs whereon you may receive our orders by one of our principal secretaries of state, you shall in all such cases transmit to our said secretary only an account of all such occurrences and of your proceedings relative to such orders.

Circular: Bahamas, Barbados, Bermuda, Jamaica, Leeward Is., Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Nova Scotia, South Carolina, Virginia: April 14, 1752; (§ 1033).

### 1033. REPORT ON PROCEEDINGS AND AFFAIRS IN PROVINCE (II)

And you are upon all occasions to send unto our Commissioners for Trade and Plantations only a particular account of all your proceedings and of the condition of affairs within your government in order to be laid before us. Provided, nevertheless, that whenever any occurrences shall happen within your government of such a nature and importance as may require our more immediate direction by one of our principal secretaries of state, and also upon all occasions and in all affairs whereon you may receive our orders by one of our principal secretaries of state, you shall in all such cases transmit to our secretary of state only an account of all such occurrences and of your proceedings relative to such orders.

- Bahamas: (§ 1032); 1759-66; (§§ 1034, 1031).  
 Barbados: (§ 1032); 1756-66; (§§ 1034, 1031).  
 Bermuda: (§ 1032); 1755-66; (§ 1034).  
 East Florida: 1763-66; (§§ 1034, 1031).  
 Georgia: 1754-66; (§ 1034).  
 Grenada: 1763-66; (§§ 1034, 1031).  
 Jamaica: (§ 1032); 1752-66; (§§ 1034, 1031).  
 Leeward Is: (§ 1032); 1753-66; (§§ 1034, 1031).  
 Massachusetts: (§ 1032); 1756-66; (§§ 1034, 1031).  
 New Hampshire: (§ 1032); 1761-66; (§ 1031).  
 New Jersey: (§ 1032); 1758-66; (§ 1034).  
 New York: (§ 1032); 1753-66; (§§ 1034, 1031).  
 North Carolina: (§ 1032); 1754-66; (§§ 1034, 1031).  
 Nova Scotia: (§ 1032); 1756-66; (§§ 1034, 1031).  
 Quebec: 1763-66; (§§ 1034, 1031).  
 South Carolina: (§ 1032); 1755-66; (§§ 1034, 1031).  
 Virginia: (§ 1032); 1756-66; (§§ 1034, 1031).  
 West Florida: 1763-66; (§§ 1034, 1031).

#### 1034. ALTERATION IN CORRESPONDENCE AND REPORTS, 1766

Whereas we have thought fit by order made in our Privy Council on the 8th instant,<sup>5</sup> to revoke and repeal an order made in council by his late Majesty, our royal grandfather on the 4th of March, 1752,<sup>6</sup> containing several rules and regulations relating to our colonies and Plantations in America and elsewhere, particularly with respect to the correspondence to be carried on between our Commissioners for Trade and Plantations and the governors of the said colonies and plantations respectively; it is therefore our will and pleasure to revoke and annul and we do hereby revoke and annul all and every such part and parts of our general instructions and of any additional instructions to you as do direct and require you to correspond in matters relative to your government with our Commissioners for Trade and Plantations only; and it is our will and pleasure that in all cases wherein you are directed and required to transmit any general or particular accounts of your proceedings or of matters relative to your governments, you do for the future transmit the same to us by one of our principal secretaries of state, and also transmit duplicates thereof to our Commissioners for Trade and Plantations for their information except in cases of a secret nature.

<sup>5</sup> So in the draft instruction submitted Aug. 9, 1766. For the order in council of Aug. 8, 1766, see *Acts, Privy Coun., Col., 1766-83*, § 1. See also Basye, *The Lords Commissioners of Trade and Plantations*, pp. 154-160.

<sup>6</sup> An error. The order in council referred to was dated March 11, 1752, not March 4. See above, § 1032 and note 4.

Circular: Bahamas, Barbados, Bermuda, East Florida, Georgia, Grenada, Jamaica, Leeward Is., Massachusetts, New Jersey, New York, North Carolina, Nova Scotia, Quebec, South Carolina, Virginia, West Florida: Sept. 13, 1766; <sup>7</sup> (§ 1031).

<sup>7</sup> This additional instruction continued in force until the Revolution in Bermuda, Georgia, and New Jersey. In the other colonies listed here the rule for correspondence was continued in subsequent general instructions especially as shown in § 1031, variations C and E. The additional instruction was not sent to New Hampshire since general instructions to John Wentworth were signed on the same date as the additional instructions and contained the new rule.

## PART XVIII

### TRADE INSTRUCTIONS

THE trade instructions constitute a separate document from the general instructions. They are formally headed: "Orders and instructions to our trusty and well-beloved — in pursuance of several laws relating to the trade and navigation of this our Kingdom of Great Britain and our colonies and plantations in America." The first set of trade instructions was prepared in 1685 by the Lords of Trade with the assistance of the Commissioners of the Customs,<sup>1</sup> and a second circular set was drafted in 1697 by the Commissioners of the Customs, submitted by them to the Lords of the Treasury, and by the latter referred to the Board of Trade for comment.<sup>2</sup> Thereafter each newly appointed or reappointed governor usually received a set along with his general instructions, prepared by the Board of Trade from existing models after considering suggestions from the Commissioners of the Customs.<sup>3</sup>

In a number of instances no copy of the trade instructions to a particular governor is extant. Gaps in the series are most frequent during the years 1755-1766. In many other cases the clerks in the Plantation Office, instead of copying a set of instructions in full into the entry books, simply made a note to the effect that they were the same as those to some other governor, previously entered. For these reasons and because of the great uniformity in the extant trade instructions, it has not been considered necessary to append to every article following the same sort of detailed list of provinces and dates which appears in the other parts of this work. Wherever possible a brief statement of the *provenance* of the article is substituted.

#### 1035. GOVERNOR TO INFORM HIMSELF OF LAWS

You shall inform yourself of the principal laws relating to the plantation trade, viz:

<sup>1</sup> C. O. 5; 5, fo. 71; C. O. 324: 12, p. 58. Copies of the 1685 trade instructions are printed in *New York Col. Docs.*, III, 382-385; *Maryland Archives*, V, 446-452; *House of Lords MSS.*, New Series, II, 489-488 (as sent to Maryland).

<sup>2</sup> C. O. 324: 6, pp. 142-165; *Cal. State Paps., Col.*, 1696-97, §§ 898, 1007. They are printed in *Maryland Archives*, XXIII, 311-321; *House of Lords MSS.*, New Series, II, 494-499.

<sup>3</sup> On the preparation of the trade instructions see L. W. Labaree, *Royal Government in America*, pp. 69-71.

An Act for the Encouraging and Increasing of Shipping and Navigation [1660; 12 Car. II, c. 18];<sup>4</sup>

An Act for Preventing Frauds and Regulating Abuses in the Customs [1662; 14 Car. II, c. 11];

An Act for the Encouragement of Trade [1663; 15 Car. II, c. 7];

An Act to Prevent Planting of Tobacco in England and for Regulating the Plantation Trade [1670; 22 & 23 Car. II, c. 26];

An Act for the Encouragement of the Greenland and Eastland Trades and for Better Securing the Plantation Trade [1673; 25 Car. II, c. 7];

An Act for Preventing Frauds and Regulating Abuses in the Plantation Trade [1696; 7 & 8 Wm. III, c. 22];

An Act for the Increase and Encouragement of Seamen [1696; 7 & 8 Wm. III, c. 21];

An Act to Enforce the Act for the Increase and Encouragement of Seamen [1697; 8 & 9 Wm. III, c. 23];

An Act for Raising a Sum not Exceeding Two Millions, &c., and for Settling the Trade to the East Indies [1698; 9 Wm. III, c. 44];

An Act to Prevent the Exportation of Wool out of Ireland and England . . . [1699; 10 Wm. III, c. 16];

An Act to Encourage the Trade to Newfoundland [1699; 10 Wm. III, c. 14];

An Act for the More Effectual Suppression of Piracy [1700; 11 Wm. III, c. 7];

An Act to Punish Governors of Plantations in This Kingdom for the Crimes by Them Committed in the Plantations [1700; 11 Wm. III, c. 12];

An Act for Granting a Further Subsidy on Wines and Merchandises Imported [1704; 3 & 4 Anne, c. 3];

An Act to Permit the Exportation of Irish Linen Cloth to the Plantations, etc. [1704; 3 & 4 Anne, c. 7];

An Act for the Encouraging the Importation of Naval Stores from Her Majesty's Plantations in America [1704; 3 & 4 Anne, c. 11];

<sup>4</sup> For the sake of brevity and simplicity the words of the text indicating the year of the act (*e.g.*, "made in the 12th year of the reign of King Charles the Second") are omitted here and after every other act listed in this article. The calendar year and statutory citation are given instead in square brackets. In this article, as throughout the work, citations of acts passed before 1714 are given as in the *Statutes of the Realm* (Record Commission, 1810-28), where regnal years occasionally differ from those mentioned in the instructions and where both regnal years and chapter numbers often differ from those given in the various editions of the unofficial *Statutes at Large*. For the period after 1713 the citations of the *Statutes at Large* are used.

An Act for an Union of the Two Kingdoms of England and Scotland [1707; 6 Anne, c. 11];

An Act for Ascertaining the Rates of Foreign Coins in Her Majesty's Plantations in America [1707; 6 Anne, c. 57];

An Act for the Encouragement of the Trade to America [1707; 6 Anne, c. 64];

An Act for Continuing Several Impositions, &c., and to Limit a Time for Prosecution upon Certain Bonds (called in the act plantation bonds) [1709; 8 Anne c. 14];

An Act for the Preservation of White and Other Pine Trees Growing in Her Majesty's Colonies of [New England] [1710; 9 Anne, c. 22];

An Act for the Encouragement of the Trade to America [1710; 9 Anne, c. 29];

An Act for the Relief of Merchants Importing Prize Goods from America [1711; 10 Anne, c. 30];

An Act for the Further Preventing Robbery, Burglary, and Other Felonies, &c., and for Declaring the Law upon Some Points Relating to Pirates [1717; 4 Geo. I, c. 11];

An Act Against Clandestine Running of Uncustomed Goods, and for the More Effectual Preventing of Frauds Relating to the Customs [1718; 5 Geo. I, c. 11];

An Act for the Better Securing the Lawful Trade of His Majesty's Subjects to and from the East Indies . . . [1718; 5 Geo. I, c. 21];

An Act for the Further Preventing His Majesty's Subjects from Trading to the East Indies under Foreign Commissions . . . [1720; 7 Geo. I, c. 21];

An Act for Giving Further Encouragement for the Importation of Naval Stores and for Other Purposes Therein Mentioned [1721; 8 Geo. I, c. 12];

An Act for Encouragement of the Silk Manufactures of This Kingdom and for Importation of All Furs of the Product of the British Plantations into This Kingdom Only, &c. [1721; 8 Geo. I, c. 15];

An Act to Prevent the Clandestine Running of Goods, &c., and to Subject Copper Ore of the Production of the British Plantations to Such Regulations as Other Enumerated Commodities of the Like Production are Subject to [1721; 8 Geo. I, c. 18];

An Act for the More Effectual Suppression of Piracy [1721; 8 Geo. I, c. 24];

An Act for Encouraging the Greenland Fishery [1723; 10 Geo. I, c. 16];

An Act for Repealing the Duties Laid upon Snuff, &c., and for Giving a Further Encouragement to the Greenland Fishery [1725; 12 Geo. I, c. 26];

An Act to Revive the Laws Therein Mentioned, &c., for Making Copper Ore of the British Plantations an Enumerated Commodity, for Making Perpetual an Act Therein Mentioned for Suppression of Piracy, &c. [1729; 2 Geo. II, c. 28];

An Act for the Better Preservation of His Majesty's Woods in America, and for the Importation of Naval Stores from Thence, &c. [1729; 2 Geo. II, c. 35];

An Act for Reducing the Annuity or Fund of the United East India Company . . . [1730; 3 Geo. II, c. 14];

An Act for Importing from His Majesty's Plantations in America Directly into Ireland Goods not Enumerated in Any Act of Parliament [1731; 4 Geo. II, c. 15];

An Act for Granting an Allowance upon the Exportation of British-made Gunpowder [1731; 4 Geo. II, c. 29];

An Act for Further Encouraging the Manufacture of British Sail Cloth . . . [1731; 4 Geo. II, c. 27];

An Act for the More Easy Recovery of Debts in His Majesty's Plantations and Colonies in America [1732; 5 Geo. II, c. 7];

An Act to Prevent the Exportation of Hats out of Any of His Majesty's Colonies or Plantations in America . . . [1732; 5 Geo. II, c. 22];

An Act for Encouraging the Growth of Coffee in His Majesty's Plantations in America [1732; 5 Geo. II, c. 24];

An Act for the Better Securing and Encouraging the Trade of His Majesty's Sugar Colonies in America [6 Geo. II, c. 13];<sup>5</sup>

An Act for Encouraging the Greenland Fishery [1732; 5 Geo. II, c. 28];

An Act for Reviving an Act of 5th George the First, for Better Securing the Lawful Trade of his Majesty's Subjects to and from the East Indies, &c. [1732; 5 Geo. II, c. 29];

An Act for the Further Encouragement of the Whale Fishery [1733; 6 Geo. II, c. 33];

<sup>5</sup> This act was omitted from several sets of instructions, at first, presumably, by a clerk's oversight, the omission being then repeated as one list was prepared from a retained copy of another.

An Act for Encouraging and Regulating the Manufacture of British Sail Cloth [1736; 9 Geo. II, c. 37];

An Act for Laying a Duty upon Apples Imported . . . [1737; 10 Geo. II, c. 27];

An Act to Continue Two Separate Acts . . . One for Encouraging the Growth of Coffee . . . and the Other for the Better Securing and Encouraging the Trade of His Majesty's Colonies in America [1738; 11 Geo. II, c. 18];

An Act for Taking off the Duties upon Woolen and Bay Yarn Imported from Ireland to England . . . [1739; 12 Geo. II, c. 21];

An Act for Granting a Liberty to Carry Sugars of the Growth, Produce, or Manufacture of Any of His Majesty's Sugar Colonies in America from the Said Colonies Directly to Foreign Ports . . . [1739; 12 Geo. II, c. 30];

An Act to Rectify a Mistake in an Act Made in the Sixth Year of the Reign of His Late Majesty King George the First for Preventing Frauds, &c. . . . [1739; 12 Geo. II, c. 22];

An Act to Continue Several Laws Therein Mentioned, &c., and for Better Securing the Lawful Trade of His Majesty's Subjects to and from the East Indies, &c. [1740; 12 Geo. II, c. 18];

An Act for the Better Supply of Mariners and Seamen to Serve in His Majesty's Ships of War and on Board Merchants Ships and Other Trading Ships and Privateers [1740; 13 Geo. II, c. 3];

An Act for the More Effectual Securing and Encouraging the Trade of His Majesty's British Subjects to America . . . [1740; 13 Geo. II, c. 4];

An Act for Continuing the Several Laws Therein Mentioned Relating to the Premiums upon the Importation of Masts, Yards, and Bowsprits . . . [1740; 13 Geo. II, c. 28];

An Act for Naturalizing Such Foreign Protestants and Others Therein Mentioned as Are Settled or Shall Settle in Any of His Majesty's Colonies in America [1740; 13 Geo. II, c. 7];

An Act for Restraining and Preventing Several Unwarrantable Schemes and Undertakings in His Majesty's Colonies and Plantations in America [1741; 14 Geo. II, c. 37];

An Act for the Encouragement and Increase of Seamen and for the Better and Speedier Manning His Majesty's Fleet [1741; 14 Geo. II, c. 38];

An Act to Revive Several Acts, &c., &c., and for Extending the Liberty Given by the Act of the Twelfth Year of the Reign of His

Present Majesty for Carrying Sugar of the Growth of the British Sugar Colonies in America, &c., to Ships Belonging to Any of His Majesty's Subjects Residing in Great Britain . . . [1742; 15 Geo. II, c. 33];

An Act for Further Regulating the Plantation Trade, &c. [1742; 15 Geo. II, c. 31];

An Act to Continue Several Laws for the Encouragement of the Making of Sail Cloth in Great Britain [1742; 15 Geo. II, c. 35];

An Act for Continuing Several Laws Relating to the Exportation of British-made Gunpowder, to the Importation of Naval Stores from the British Colonies in America, &c. [1743; 16 Geo. II, c. 26];

An Act to Continue the Several Laws Therein Mentioned for Preventing Theft and Rapine, &c., and for Granting Liberty to Carry Sugars of the Growth, Produce, or Manufacture of Any of His Majesty's Sugar Colonies in America from the Said Colonies Directly to Foreign Parts, &c. [1744; 17 Geo. II, c. 40];

An Act for the Better Encouragement of Seamen in His Majesty's Service and Privateers to Annoy the Enemy [1744; 17 Geo. II, c. 34];

An Act for Giving a Public Reward to Such Person or Persons, His Majesty's Subject or Subjects, as Shall Discover a Northwest Passage Through Hudson's Straits to the Western and Southern Ocean of America [1745; 18 Geo. II, c. 17];

An Act to Amend an Act Made in the Eleventh Year of the Reign of King William the Third, Entitled An Act for the More Effectual Suppression of Piracy [1745; 18 Geo. II, c. 30];

An Act to Continue Two Acts of Parliament, One for Encouraging the Growth of Coffee in His Majesty's Plantations and the Other for the Better Securing and Encouraging the Trade of His Majesty's Sugar Colonies in America [1746; 19 Geo. II, c. 23];

An Act for the More Effectual Securing the Duties Now Payable on Foreign-made Sail Cloth . . . [1746; 19 Geo. II, c. 27];

An Act for the Better Encouragement of the Trade of His Majesty's Sugar Colonies in America [1746; 19 Geo. II, c. 30];

An Act for the Better Securing the Payment of Shares of Prizes Taken from the Enemy to the Royal Hospital at Greenwich and for Preventing the Embezzlement of Goods and Stores Belonging to the Said Hospital [1747; 20 Geo. II, c. 24];

An Act to Extend the Provision of an Act Made in the Thirteenth Year of His Present Majesty's Reign, Entitled An Act for Naturaliz-

ing Such Foreign Protestants . . . as Are Settled . . . in Any of His Majesty's Colonies in America to Other Foreign Protestants Who Conscientiously Scruple to the Taking of an Oath [1747; 20 Geo. II, c. 44];

An Act to Continue Several Laws for Prohibiting the Importation of Books Reprinted Abroad, &c., and for Better Securing the Lawful Trade of His Majesty's Subjects to and from the East Indies, &c. [1747; 20 Geo. II, c. 47];

An Act to Continue Several Laws Relating to the Manufactures of Sail Cloth and Silk . . . [1747; 20 Geo. II, c. 45];

An Act to Continue Several Laws, &c., Relating to Rice, to Frauds in the Customs, &c., and to Copper Ore of the British Plantations, &c. [1747; 20 Geo. II, c. 47];

An Act for Further Regulating the Proceedings Upon Courts Martial in the Sea Service . . . [1748; 21 Geo. II, c. 11];

An act for Permitting Tea to Be Exported to Ireland and His Majesty's Plantations in America Without Paying the Inland Duties Charged Thereupon by an Act of the Eighteenth Year of His Present Majesty's Reign, &c. [1748; 21 Geo. II, c. 14];

An Act for Encouraging the Making of Indigo in the British Plantations in America [1748; 21 Geo. II, c. 30];

An Act to Continue and Amend Several Laws for the Relief of Debtors, &c. . . [1748; 21 Geo. II, c. 33];

An Act for Encouraging the People Known by the Name of Unitas Fratrum or United Brethren to Settle in His Majesty's Colonies in America [1749; 22 Geo. II, c. 30];

An Act for Amending, Explaining, and Reducing into One Act of Parliament the Laws Relating to the Government of His Majesty's Ships, Vessels, and Forces by Sea [1749; 22 Geo. II, c. 33];

An Act for the Further Encouragement and Enlargement of the Whale Fishery . . . [1749; 22 Geo. II, c. 45];

An Act for Encouraging the Growth and Culture of Raw Silk in His Majesty's Colonies or Plantations in America [1750; 23 Geo. II, c. 20];

An Act to Encourage the Importation of Pig and Bar Iron from His Majesty's Colonies in America and to Prevent the Erection of Any Mill or Other Engine for Slitting or Rolling of Iron or Any Plating Forge to Work with a Tilt Hammer, or Any Furnace for Making Steel in Any of the Said Colonies [1750; 23 Geo. II, c. 29];

An Act for Regulating the Commencement of the Year and for Correcting the Calendar Now in Use [1751; 24 Geo. II, c. 23];

An Act for the More Effectual Securing the Duties upon Tobacco [1751; 24 Geo. II, c. 41];

An Act for Encouraging the Making of Potashes and Pearlashes in the British Plantations in America [1751; 24 Geo. II, c. 51];

An Act for Continuing Several Laws Therein Mentioned Relating to the Premiums upon the Importation of Masts, Yards, and Bowsprits . . . [1751; 24 Geo. II, c. 52];

An Act to Regulate and Restrain Paper Bills of Credit in His Majesty's Colonies or Plantations of [New England] and to Prevent the Same being Legal Tenders in Payments of Money [1751; 24 Geo. II, c. 53];

An Act to Continue Several Laws Therein Mentioned and for Granting a Liberty to Carry Sugars of the Growth, Produce, or Manufacture of Any of His Majesty's Sugar Colonies in America . . . Directly into Foreign Parts . . . [1751; 24 Geo. II, c. 57];

An Act for Avoiding and Putting an End to Certain Doubts and Questions Relating to the Attestation of Wills and Codicils, Concerning Real Estates in That Part of Great Britain Called England and in His Majesty's Colonies and Plantations in America [1752; 25 Geo. II, c. 6];

An Act to Restrain the Making Insurances on Foreign Ships Bound to or from the East Indies [1752; 25 Geo. II, c. 26];

An Act to Amend an Act . . . for Regulating the Commencement of the Year and for Correcting the Calendar Now in Use [1752; 25 Geo. II, c. 30];

An Act for Continuing the Act for Encouraging the Growth of Coffee in His Majesty's Plantations in America, and Also for Continuing under Certain Regulations So Much of an Act as Relates to the Premiums upon the Importation of Masts, Yards, and Bowsprits, Tar, Pitch, and Turpentine [1752; 25 Geo. II, c. 35];

An Act for Continuing Several Laws Relating to the Punishment of Persons Going Armed or Disguised in Defiance of the Laws of Custom or Excise, &c., &c., and for Encouraging the Trade of the Sugar Colonies in America [1753; 26 Geo. II, c. 32];

ALL which laws you will herewith RECEIVE; and you shall take a solemn oath to do your utmost that all the clauses, matters and things contained in the before-recited acts and all OTHER acts of

parliament now in force or that hereafter shall be made relating to our colonies or plantations be punctually and bona fide observed, according to the true intent and meaning thereof.

A—Omit all acts listed except the 1st, 3rd, 4th, and 5th. Omit all the text following the list of acts and substitute: “being contained in a Book of Rates herewith delivered to you for your further information”.

B—Omit the entire listing of individual acts. Omit (in first line following enumeration) ALL . . . RECEIVE. Omit (in third line following enumeration) IN . . . OTHER and substitute: “in all”.

Included in form A in all trade instructions issued from 1685 until 1697; included in text form in all issued from 1697 until 1765 (but during this period the acts cited varied. From 1697 until 1727 the first six acts only were given, additions being made from time to time thereafter until the entire list as here printed appeared in trade instructions issued between 1753 and 1765); included in form B in all trade instructions issued from 1765 until the Revolution.

### 1036. NAVAL OFFICERS TO GIVE SECURITY AND BE APPROVED

And whereas by the aforesaid act made in the 7th and 8th years of King William the Third, the officers appointed by the governors for performance of certain things mentioned in the aforesaid *Act for the Encouragement of Trade*,<sup>6</sup> commonly known by the name of the naval officers, are to give security to the Commissioners of the Customs in Great Britain for the time being, or such as shall be appointed by them, for our use, for the true and faithful performance of their duty; you shall take care that the person or persons by you so employed do not only give such security to the said Commissioners of our Customs, BUT be approved of by them in the manner thereby enjoined.

A—Add at end: “and that he or they produce to you a certificate from them of his or their having given security pursuant to a clause in the said act.”

B—Omit from BUT to the end and substitute: “or the surveyor general of the customs for the [northern, southern] district, who is empowered to take the same in the manner thereby enjoined, and that he or they produce to you a certificate from them of his or their having given security pursuant to a clause in the said act; and you are not to admit any person to act as naval officer who does

<sup>6</sup> 15 Car. II, c. 7.

not within two months or as soon as conveniently may be after he has entered upon the execution of his office produce a certificate of his having given such security as aforesaid."

Included in text form in all trade instructions issued from 1697 until 1721; included in form A in all issued between 1721 and 1752; included in form B in all issued in 1752 and thereafter.

**1037. RESIDENCE OF NAVAL OFFICERS AND CUSTOMS  
COLLECTORS**

And whereas it is necessary for the more effectual dispatch of merchants and others that the naval officers and the collectors of the customs should reside at the same ports or towns, you are therefore to take care that this regulation be observed, AND to consult with the surveyor general of our customs in what place it may be most convenient to have the customs house fixed in each part of his district and to take care that the collector and naval officer reside within a convenient distance of the customs house for the dispatch of business.

**A—Omit from AND to the end.**

## 1038. CHECKS IMPOSED UPON NAVAL OFFICERS

His Majesty having been informed that the naval officers, being the persons appointed by the governors in his respective plantations in America to take bonds and give certificates for clearing of ships, have generally neglected to comply with the direction of the late act of parliament for *Preventing Frauds and Regulating Abuses in the Plantation Trade*,<sup>7</sup> which required their giving security to the Commissioners of the Customs in England for the due discharge of their trust; and it having been further represented to his Majesty that besides the security which the said naval officers are obliged by law to give, it would be very expedient that (according to

the constitution of the customs of England, which has provided a control upon the action of every officer employed therein) the concurrence of the collector appointed by the Commissioners of the Customs in his Majesty's respective plantations should also be made necessary to so important an act as that of signing certificates for clearing of ships; his Majesty taking the same into consideration is hereby pleased to declare his will and pleasure, and you are accordingly hereby required, to take care that the naval officer or officers in his Majesty's province of — under your government do give security for the due discharge of their trust, to such person as is or shall be appointed by the Commissioners of the Customs for that purpose, according to the direction of the forementioned act of parliament, and likewise that you do not admit or allow any certificates signed by the naval officer or officers aforesaid for the clearing of ships within his Majesty's said province of — to be valid or effectual for that end without the concurrence of the collector appointed there by the Commissioners of his Majesty's Customs.

Circular: to all governors, Nov. 10, 1698.

#### 1039. COLONIAL TRADE IN ENGLISH SHIPS

You are to take notice that by the said Act of Navigation,<sup>8</sup> no goods or commodities whatsoever are to be imported into or exported out of our province of — or any other of our colonies or plantations in any other ships or vessels whatsoever but in such as do truly and without fraud belong only to the people of England or Ireland, Wales, or Berwick or are of the build of and belonging to any of our colonies or plantations as the proprietors and right owners thereof, and whereof the master and three-fourths of the mariners at least are English, under the penalty of the forfeiture and loss of all the goods and commodities which shall be imported or exported in any other ship or vessel, as also of the ship or vessel; and if any goods shall be imported or exported contrary thereunto, you are to cause seizure to be made thereof as also of the ship or vessel importing or exporting the same and to direct prosecution thereof as in the said act is provided. And for your information as to foreign-built ships, we refer you to the act made in the 14th

<sup>8</sup> 12 Car. II, c. 18.

year of the reign of our said dearly beloved brother, *for Preventing Frauds and Regulating Abuses in Our Customs*,<sup>9</sup> being also contained in the said book of rates. And whereas it is required that the master and three-fourths of the mariners at least be English, you are to understand that any of our subjects of England, Ireland, or the plantations are to be accounted English and no others, and that the number of mariners are to be accounted according to what they shall have been during the whole voyage.

Circular: 1685.

New York: 1686; (§ 1040).

Jamaica: 1687; (§ 1040).

#### 1040. ENGLISH OWNERSHIP AND MANNING OF SHIPS

Whereas by the said Act of Navigation<sup>10</sup> no goods or commodities whatsoever are to be imported into or exported out of any of our colonies or plantations in any other ships or vessels whatsoever but in such as do truly and without fraud belong only to our people of England or Ireland or are of the build of and belonging to any of our lands, islands, or territories as the proprietors and right owners thereof, and whereof the master and three-fourths of the mariners, at least, are English, under the penalty of the forfeiture and loss of all the goods and commodities which shall be imported into or exported out of any of the said places in any other ship or vessel, as also of the ship or vessel with her guns, furniture, &c.; and whereas by a clause in the aforesaid Act of Frauds<sup>11</sup> no foreign-built ship, that is to say not built in any of our dominions of Asia, Africa, or America, or other than such as shall *bona fide* have been bought before the 1st October, 1662, and expressly named in the list thereby appointed to be made of all foreign-built ships in all the ports of ENGLAND, shall enjoy the privilege of a ship belonging to England or Ireland, although owned or manned by English (except such ships only as shall be taken at sea by letters of marque or reprisal, and condemnation made in the Court of Admiralty as lawful prize), but all such ships shall be deemed as aliens' ships and be liable to all duties that aliens' ships are liable to by virtue of the aforesaid *Act for the Encouraging and Increasing of Shipping and Navigation*.<sup>10</sup> And whereas by a clause in the aforesaid *Act for*

<sup>9</sup> 13 & 14 Car. II, c. 11.

<sup>10</sup> 12 Car. II, c. 18.

<sup>11</sup> 13 & 14 Car. II, c. 11.

*Preventing Frauds and Regulating Abuses in the Plantation Trade*<sup>12</sup> it is enacted that AFTER the 25th of March, 1698, no goods or merchandise whatsoever shall be imported into and exported out of any of our colonies or plantations in Asia, Africa, or America, or shall be laden in or carried from any one port or place in the said colonies or plantations to any other port or place in the same or to our Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed in any ship or bottom but what is or shall be of the build of England or of the build of Ireland, or of the said colonies or plantations, and wholly owned by the people thereof, or any of them, and navigated with the master and three-fourths of the mariners of the said places only (except such ships only as shall be taken prize and condemnation thereof made in one of our Courts of Admiralty in England, Ireland, or the said colonies or Plantations, to be navigated by the master and three-fourths of the mariners English, or of the said plantations as aforesaid, and whereof the property doth belong to Englishmen, WITH an exception for three years of such foreign-built ships as shall be employed by the Commissioners of Our Navy for the time being or upon contract with them in bringing only masts, timber, and other naval stores for our service from our colonies or plantations to our kingdom, to be navigated as aforesaid, and wherof the property does belong to ENGLISHMEN) on the pain of forfeiture of ship and goods. And whereas by another clause in the same *Act for the More Effectual Prevention of Frauds* which may be used by coloring foreign ships under English names, it is further enacted that FROM and after the 25th of March, 1698, no ship or vessel whatsoever shall be deemed or pass as a ship of the build of England, Ireland, Wales, Berwick, Guernsey, Jersey, or any of our plantations in America, so as to be qualified to trade to, from, or in any of the said plantations until the person or persons claiming property in such ship or vessel shall register the same in manner thereby appointed; you shall take care and give in charge that these matters and things be duly observed within our said province of — according to the true intent and meaning of the said acts, and the offenses and offenders prosecuted according to the directions thereof. And whereas it is required that the master and three-fourths of the mariners be English, you are to understand that the true intent and meaning thereof is that they shall be such during the whole voyage, unless

<sup>12</sup> 7 & 8 Wm. III, c. 22.

in case of sickness, death, or being taken prisoners in the voyage, to be proved by the oath of the master or other chief officer of the ship, and none but our subjects of England, Ireland, or the plantations are to be accounted English.

A—Omit OR . . . ENGLAND. Omit AFTER . . . (first) 1698. Omit WITH . . . ENGLISHMEN. Omit FROM . . . (second) 1698.

B—Omit WITH . . . ENGLISHMEN.

Circular: 1697.	New Hampshire: 1702–28; 1728–Rev. A.
Bahamas: 1729–Rev. A.	New Jersey: 1702–20; 1720–27 B; 1727–Rev. A.
Barbados: 1697–1721; 1721–Rev. A.	New York: (§ 1039); 1701–20; 1720–27 B; 1727–Rev. A.
Bermuda: 1698–1721; 1721–Rev. A.	North Carolina: 1730–Rev. A.
Dominica: 1770–Rev. A.	Nova Scotia: 1719–29 B; 1729–Rev. A.
East Florida: 1773–Rev. A.	Quebec: 1768–Rev. A.
Georgia: 1754–Rev. A.	St. John: 1769–Rev. A.
Grenada: 1763–Rev. A.	St. Vincent: 1776–Rev. A.
Jamaica: (§ 1039); 1699–1721; 1721–Rev. A.	South Carolina: 1720–30 B; 1730–Rev. A.
Leeward Is: 1699–1721; 1721–Rev. A.	Virginia: 1698–1728; 1728–Rev. A.
Maryland: 1697–1715.	West Florida: 1763–Rev. A.
Massachusetts: 1697–1716; 1716–28 B; 1728–Rev. A.	

#### 1041. CREWS OF MERCHANT SHIPS IN TIME OF WAR

Whereas by the third article of our [trade] instructions to you,<sup>13</sup> according to several laws relating to the trade and navigation of this our kingdom of England and to our colonies and plantations in America, you are required to take care and give in charge that no goods or commodities whatsoever be imported into or exported out of our province of — under your government in any ships or vessels but in such whereof the master and three-fourths of the mariners, at least, are English; and whereas by a clause in an act passed the last session of parliament, entitled *An Act for Raising Recruits for the Land Forces and Marines and for Dispensing with Part of the Act for the Encouragement and Increase of Shipping and Navigation during the Present War*<sup>14</sup> (copy whereof you shall here-with receive), it is enacted that during the present war and no longer the number and proportion of mariners to sail in such ships

<sup>13</sup> See above, § 1040.

<sup>14</sup> 2 & 3 Anne, c. 13.

or vessels which by laws now in force are limited to the master and three-fourths of the mariners to be English, shall be enlarged to the master and one moiety of the mariners, at least, to be English; it is our will and pleasure that you take care and give in charge to the proper officers that the said act be observed in our province of — under your government during this present war accordingly.

Circular: Barbados, Bermuda, Jamaica, Leeward Is., Maryland, Massachusetts, New Hampshire, New Jersey, New York, Virginia: July 17, 1704.  
New York: 1709-15.<sup>15</sup> Virginia: 1705-15.<sup>16</sup>

#### 1042. SHIP MASTERS TO PRESENT CERTIFICATES OF BONDS

And forasmuch as by the act made in the twenty-fifth of our reign, entitled *An Act for the Better Securing the Plantation Trade*,<sup>16</sup> certain rates and duties are imposed upon tobacco and other commodities therein enumerated that shall be loaden on board any ship or vessel before bond be given to bring the same to England, Wales, or Berwick only and to no other place; you are therefore to take effectual care that the masters of all ships and vessels arriving within your government do, before they be admitted to lade any tobacco or other the said enumerated plantation goods, produce to our collector there, appointed by the Commissioners of our Customs in England, a certificate of the bonds entered into by them, wherein the condition thereof is to be mentioned and expressed.

Barbados: May 3, 1684.

#### 1043. EXPORTATION OF ENUMERATED COMMODITIES

Whereas by the Act of Navigation it is further enacted that for every ship or vessel which shall set sail out of or from England, Ireland, Wales, or Berwick-upon-Tweed for any English plantation in America, Asia, or Africa, sufficient bond shall be given with one surity to the chief officers of the customs of such port or place from whence the said ship shall set sail, to the value of £1,000 if the ship be of less burden than 100 tons, and of the sum of £2,000 if the ship be of greater burden, that in case the said ship or vessel shall load

<sup>15</sup> This article was attached as an additional instruction to the trade instructions of New York, 1709, and of Virginia, 1705, 1707, and 1710.

<sup>16</sup> 25 Car. II, c. 7.

any of the commodities therein enumerated, viz: sugar, tobacco, cotton-wool, indigo, ginger, fustic, or other dying wood of the growth, production, or manufacture of any English plantation in America Asia, or AFRICA at any of the said English plantations, that the same commodities shall be by the said ship brought to some port of England, Ireland, Wales, or to the port or town of Berwick-upon-Tweed, and be there unladen and put on shore, the danger of the seas only excepted; and for all ships coming from any other port or place to any of the aforesaid plantations which by this act are permitted to trade there, that the governors of such English plantations shall, before the said ship or vessel be permitted to load on board any of the said commodities, take bond in manner and to the value aforesaid for each respective ship or vessel that such ship or vessel shall carry all the aforesaid goods that shall be laden on board the said ship to some other of our English plantations, or to England, Ireland, Wales, or Berwick; and that every ship or vessel which shall load or take on board any of the aforesaid goods until such bond be given to the said governor or certificate produced from the officers of any custom house of England, Ireland, Wales, or Berwick that such bond hath been there duly given, shall be forfeited, with her guns, tackle, apparel and furniture, to be employed and received as therein is directed.

A—Omit viz . . . AFRICA.

Circular: 1685 A.

New York: 1686 A.

Jamaica: 1687 A.

Included in text form in all trade instructions, 1697—Rev.

#### 1044. CHECKS IMPOSED ON PLANTATION BONDS

In case any ship or vessel duly navigated and qualified to trade shall arrive in any of our colonies of New England with any of the enumerate commodities of the growth of any of our plantations, you are carefully to examine or cause to be examined whether such ship had before lading given bond according to law; and if she had not given bond, then you are to cause seizure to be made of the said ship and lading according to law; and if it appears that she had given bond, you are to examine whether such bond was to come to England, Wales, or Berwick and no other place, or to England, Wales, Berwick, or to some of our plantations; and in case her

bond was given to come to England, Wales and Berwick, and to no other place, you are to forbid the said ship to unlade with you; and if notwithstanding thereof she shall put any of the said goods on shore in any part of New England, you are to keep an exact account thereof, and to take good proof upon oath of the quantities and qualities of the said goods put so on shore, and by the first opportunity to transmit the same to our Commissioners of Our Customs in England, that they may give orders for suing and recovering the penalty and forfeiture of the bond; and if such bond was given in any of our plantations, you are also with the first convenience to give notice and the proof thereof to our governor of such plantation and the collector of the customs there for the time being, that they may take care for the speedy putting such bond in suit; but if such bond was to come to England, Wales, and Berwick, or some of our plantations, in such case you are to permit the said ship to unlade, examining the certificates from the officers in our plantations where she laded whereby to satisfy yourself that our duties were there paid for the goods on board; and if any of the aforesaid goods shall be found on board for which our duties have not been paid, you are to make seizure thereof for non-payment of the said duties according to the laws and rules for collecting our customs in ENGLAND. And to prevent the many frauds, mischiefs, and inconveniences in granting certificates to ships giving bond in our Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, the Commissioners of our Customs in England have caused certificates in blanks to be sent to the customer, comptroller, and collector of each port in this our kingdom, with directions to grant the same as occasion shall serve; you are to cause all such certificates of bonds given in England, Wales, or Berwick to ships arriving within our [Territory and Dominion of New England, or island of Jamaica] to be produced as well to the collector of our customs there for the time being or his deputy or deputies as to the officer or officers appointed by you to receive the same; and the said Commissioners of our Customs having formerly sent over a sufficient number of printed certificates in blanks of several sorts, the better to discover the truth of certificates of bonds given in [New England, or our island] aforesaid, you are to give order and take care that the secretary or naval officer do join with the said collector of our customs or his deputy or deputies in granting the said certificates; and that they do not grant any other certificates

than those before mentioned nor them without the hand and seal of the said collector or his deputy, nor accept of any security upon bond given in [any of our colonies of New England, or our said island] without the privity and approbation of the said collector or his deputies or of any certificates in discharge of such bond, without the like privity and approbation.

And whereas our said Commissioners of our Customs have thought it necessary for our service that all certificates hereafter to be granted in the several ports within our Kingdom of England, Dominion of Wales, and town of Berwick-upon-Tweed in order to the clearing of bonds given in our plantations be signed and sealed by the principal officers of our customs in each of the said ports and afterwards transmitted to our said commissioners to be signed by them in like manner as certificates are signed by them for plantation bonds given in this our kingdom, to which purpose they have caused printed forms of the said certificates in blanks to be sent to the said officers with the necessary instructions (one of which certificates will be delivered to you for your perusal); you are to give order and take care that no certificates which shall not be attested by one of our Commissioners of our Customs in England for the time being in the manner aforesaid be accepted of and accounted of any validity or effect to discharge any plantation bond given in any colony or place within our [Territory and Dominion of New England, or said island of Jamaica] aforesaid.

A—Omit from beginning through ENGLAND.

Jamaica: 1687 A.

New England: Oct. 31, 1686.

**1045. EXCLUSION OF IRELAND FROM ENUMERATED  
COMMODITIES CLAUSE**

You are to take notice that though by the said act<sup>17</sup> the word "Ireland" is to be inserted in the condition of the bonds and permission thereby given to bring the enumerated plantation commodities to Ireland as well as to England, Wales, or Berwick, yet, by the aforesaid *Act for Regulating the Plantation Trade*,<sup>18</sup> which being expired, was revived<sup>19</sup> and is now in force, the word "Ireland"

<sup>17</sup> 12 Car. II, c. 18.

<sup>18</sup> 22 & 23 Car. II, c. 26.

<sup>19</sup> 1 Jac. II, c. 17.

is to be left out of the condition of such bonds, and you are not to permit any ships or vessels to load any of the enumerated goods upon any certificate of bond having been given in IRELAND; but in that case before they load any of the said goods, they are to produce certificates of bond given in England, Wales, or Berwick, UNDER the hands and seals of the customer and comptroller of our customs or their deputies in such port from whence the respective ships shall come, signed also by four or more of the Commissioners of Customs in ENGLAND, or to give bond to yourself or the person appointed to receive the same, with good security as aforesaid. And if any ship or vessel shall load or take on board any of the said commodities until such bond be given or certificate PRODUCED, the said ship or vessel is forfeited with her guns, &c., to be recovered and divided in manner as is therein directed.

A—After IRELAND add: “after the first day of September, 1685”. Omit UNDER . . . ENGLAND. After PRODUCED add: “from the officers of some custom house of England, Wales or Berwick that such bond has been there duly given”.

Circular: 1685 A.

New York: 1686 A.

Jamaica: 1687 A.

Included in text form in all trade instructions in force 1697–1727.

#### 1046. ADDITIONAL ENUMERATED COMMODITIES

And whereas by AN ACT passed in the third and fourth years of the reign of Queen Anne, entitled *An Act for Granting to Her Majesty a Further Subsidy on Wines and Merchandises Imported*,<sup>20</sup> and by two other acts passed in the eighth year of his said late Majesty's reign [George I], the one entitled *An Act for the Encouragement of the Silk Manufactures of This Kingdom and for Taking off Several Duties upon Beaver Skins, Pepper, Mace, Cloves, and Nutmegs Imported and for Importation of All Furs of the Product of the British Plantations into This Kingdom Only*,<sup>21</sup> and the other entitled *An Act to Prevent the Clandestine Running of Goods, etc., and to Subject Copper Ore of the Production of the British Plantations to Such Regulations as Other Enumerated Commodities of the Like Production are Subject*;<sup>22</sup> ALL RICE, molasses, FURS, and copper ORE

<sup>20</sup> 3 & 4 Anne, c. 3.

<sup>21</sup> 8 Geo. I, c. 15.

<sup>22</sup> 8 Geo. I, c. 18,

are, under the like securities and penalties restrained to be imported unto this kingdom as the other abovementioned enumerated COMMODITIES; you are therefore to take particular care and give the necessary directions that the true intent and meaning of all the said acts be strictly and duly complied with.

A—Omit AN ACT and substitute: "two acts". After *Imported* (line 3) add: "And the other *An Act for Encouraging the Importation of Naval Stores from Her Majesty's Plantations in America*".<sup>23</sup> After FURS add: "hemp, pitch, tar, turpentine, masts, yards, bowsprits".

B—Omit ALL RICE and substitute: "continued by an act passed in the eighth year of his said late Majesty's reign [George II]"<sup>24</sup> and still in force, all rice except under the regulations prescribed in the before-mentioned acts of the third and eighth year of his late Majesty's reign [George III].

C—Omit ALL RICE and substitute: "continued by an act passed in the eighth year of his said late Majesty's reign [George II]"<sup>24</sup> and still in force, all rice, except under the regulations prescribed in the acts of the third year of his late Majesty's reign<sup>25</sup> and the fourth and fifth years of our reign".<sup>26</sup> After ORE add: "and by an act passed in the fourth year of our reign,<sup>27</sup> all coffee, pimento, cocoa-nuts, whale fins, raw silk, hides and skins, pot and pearl ashes, of the growth, production or manufacture of any British colony or plantation in America". After COMMODITIES add: "and whereas by an act passed in the fifth year of our reign entitled *An Act for More Effectually Preventing the Mischiefs Arising to the Revenue and Commerce of Great Britain and Ireland from the Illicit and Clandestine Trade to and from the Isle of Man*,<sup>28</sup> no rum or other spirits shall be shipped or laden in any British colony or plantation in America but on condition that the same shall not be carried to or landed in the Isle of Man, under the like securities, penalties and forfeitures; and whereas by another act made in the sixth year of our reign entitled *An Act for Opening and Establishing Certain Ports in the Islands of Jamaica and Dominica, for the More Free Importation and Exportation of Certain Goods and Merchandises, for Granting Certain Duties to Defray the Expenses of Opening, Maintaining, Securing, and Improving Such Ports, or Ascertaining the Duties to be Paid upon the Importation of Goods from the said Island of Dominica into This Kingdom, and for Securing the Duties upon Goods Imported from the Said Island into Any Other British Col-*

<sup>23</sup> 3 & 4 Anne, c. 11.

<sup>24</sup> 8 Geo. II, c. 21.

<sup>25</sup> 3 Geo. II, c. 28.

<sup>26</sup> 4 Geo. III, c. 27; 5 Geo. III, c. 45.

<sup>27</sup> 4 Geo. III, c. 15.

ony,<sup>29</sup> all wool, cotton-wool, indigo, cochineal, fustic, and all manner of dying drugs or woods, drugs used in medicine, hair, furs, hides and skins, pot and pearl ashes, whale fins, and raw silk of the growth and produce of any foreign colony or plantation, shall upon the exportation thereof from either of the said islands of Dominica or Jamaica be imported from thence directly into Great Britain under the like securities, penalties, and forfeitures, and by the said act of the sixth year of our reign no goods whatever shall or may be exported from the said island of Dominica to any part of Europe to the northward of Cape Finnisterre except to Great Britain, and such goods shall be there landed under the same securities, regulations, and restrictions, and subject to the like penalties and forfeitures."

Included in text form in all trade instructions issued between 1727 and 1738; included in form A in all issued between 1738 and 1752; included in forms A and B in all issued between 1752 and 1766; included in forms A and C in all issued between 1766 and the Revolution.

#### 1047. ACTION IN CASE OF FALSE CERTIFICATES

You shall carefully examine all certificates which shall be brought to you of ships giving security in this kingdom to bring their ladings of plantation goods hither, as also certificates of having discharged their ladings of plantation goods in this kingdom pursuant to their SECURITIES; and when there shall be reasonable ground of suspicion that the certificate of having given security in England is false, you or the person appointed under you shall require and take sufficient security for the discharge of the plantation lading in our Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed. And when there shall be cause to suspect that the certificates of having discharged the lading of plantation goods in this our kingdom is false or counterfeit, you shall not cancel or vacate the security given in the plantation until you shall be informed from the Commissioners of our Customs in England that the matter of the said certificate is true. And if any person or persons shall counterfeit, rase, or falsify any such certificate for any vessel or goods or shall knowingly or willingly make use thereof, you shall prosecute such person for the forfeiture of the sum of £500, according to a clause in the aforesaid *Act for Preventing Frauds and Regulating Abuses in the Plantation Trade*. And pursuant to the said act, you shall take care that in all such bonds to be hereafter given or taken in the

<sup>29</sup> 6 Geo. III, c. 49.

plantation, viz, in our province of —, the surties therein named be persons of known residence and ability there, for the value mentioned in the said bond, and that the condition of the said bonds be within eighteen months after the date thereof, the dangers of the seas excepted, to produce certificate of having landed and discharged the goods therein mentioned in one of our plantations or in our Kingdom of England, otherwise to attest the copy of such bond under your hand and seal and to cause prosecution thereof.

A—After SECURITIES add: "and whereas the better to prevent any of the foresaid certificates from being counterfeited, the Commissioners of our Customs have thought fit to sign the same, it is therefore our will and pleasure that no such certificates be allowed of unless the same be under the hands and seals of the customer, collector, and comptroller of the customs in some port of this kingdom, or two of them, as also under the hands of four of our Commissioners of the Customs at London or of three of the Commissioners of the Customs at Edinburgh respectively."

B—Add at end: "And it is our further will and pleasure that you do give directions to the naval officer or officers not to admit any person to be security for another, who has bonds standing out undischarged unless he be esteemed responsible for more than the value of such bonds."

Included in text form in all trade instructions issued between 1697 and 1727; included in form A in all issued between 1727 and 1752; included in forms A and B in all issued between 1752 and the Revolution.

#### 1048. NAVAL OFFICER TO ADVISE WITH COLLECTOR ON BONDS

And you are also to give directions to the said naval officer or officers to advise with the collector of the port or district in taking bonds and not to admit any person to be security in any plantation bond until approved by the said collector; and whereas lists of all certificates granted in South Britain for the discharge of bonds given in the plantations are every quarter sent to the collectors of the districts where such bonds are given, the said naval officer or officers is or are to take care that no bond be discharged or cancelled by him or them without first advising with the collector and examining the said list to see that the certificate is not forged or counterfeited; and whereas the SURVEYORS GENERAL of our customs in America are directed to examine from time to time whether

the plantation bonds be duly and regularly discharged, you are to give directions that the SURVEYOR general for the [northern, southern] DISTRICT be permitted to have recourse to the said bonds as well as the book or books in which they are or ought to be entered, and to examine as well whether due entry thereof was made as whether they are regularly taken and discharged, and where it shall appear that bonds are not regularly discharged, you are to order that such bonds be put in suit.

A—Omit SURVEYORS GENERAL and substitute: “principal officers”. Omit SURVEYOR . . . DISTRICT and substitute: “said officers”.

Included in text form in all trade instructions issued 1752—Rev., except that in those issued for continental colonies (including St. John) the article appears in form A from 1767 on.<sup>80</sup>

#### 1049. FOREIGN TRADE NOT OPENED BY PAYING PLANTATION DUTIES

And whereas by the aforesaid act made in the 25th year of his said Majesty's reign for *Better Securing the Plantation Trade*<sup>81</sup> it is enacted that, if any ship or vessel which by law may trade in any of his Majesty's plantations shall come to any of them to ship and take on board any of the aforesaid commodities and that bond shall not first be given with one sufficient surety to bring the same to England, Wales, or the town of Berwick-upon-Tweed and to no other place, and there to unload and put the same on shore, the danger of the seas only excepted, that there shall be answered and paid to his Majesty, his heirs, and successors, for so much of the said commodities as shall be laden and put on board such ship or vessel the rates and duties therein MENTIONED; you are to understand that the payment of the said rates and duties THEREBY IMPOSED doth not give liberty to carry the said goods to any other place than to some other of his Majesty's plantations, or to England, Wales, or Berwick, and that, notwithstanding the payment of the said duties, bond must be first given to carry the said goods to some other of his Majesty's plantations or to England, Wales, or Berwick and to no other place.

<sup>80</sup> Because of the creation in that year of the American Board of Customs Commissioners sitting at Boston.

<sup>81</sup> 25 Car. II, c. 7.

A—Omit from beginning through *MENTIONED*. Omit *THEREBY* and after *IMPOSED* add: “*by the aforesaid Act for the Encouragement of the Greenland and Eastland Trades and for the Better Securing the Plantation Trade, on the several plantation commodities therein enumerated*”.

Circular: 1685; 1697 A.

New York: 1686.

Jamaica: 1687.

Included in form A in all trade instructions, 1697—Rev.

### 1050. REPORT LISTS OF SHIPS TRADING TO PROVINCE

You shall every three months or oftener, or otherwise as there shall be opportunity of conveyance to this kingdom, transmit to the COMMISSIONERS of our CUSTOMS HERE a list of all ships and vessels trading within our said province according to the form and specimen hereunto ANNEXED.<sup>82</sup> And you shall cause demand to be made of every master at his clearing of an invoice of the contents and quality of his lading, &c., according to the form hereunto also annexed; and to enclose a copy thereof, by some other ship, or for want of such opportunity by the same ship under cover, sealed, and directed to the SAID Commissioners of our CUSTOMS, and send another copy thereof in like manner to the collector of that port in England for the time being to which such ship shall pretend to be bound.

A—Omit COMMISSIONERS . . . HERE and substitute: “Commissioners of our Treasury or our High Treasury of Great Britain for the time being, to our Commissioners of Trade and Plantations, and to the Commissioners of our Customs in London”. Omit SAID . . . CUSTOMS and make the same substitution.

B—After ANNEXED add: “together with a list of the bonds taken pursuant to the act passed in the 22nd and 23rd years of King Charles the Second’s reign, entitled *An Act to Prevent Planting Tobacco in England and for Regulating the Plantation Trade*”.<sup>83</sup>

Included in text form in all trade instructions issued from 1697 until 1727; included in form A in all issued from 1727 until 1752; included in forms A and B in all issued from 1752 to the Revolution.

<sup>82</sup> For examples of these forms see *N. Y. Col. Docs.*, V, 153, 154; *New Hamp. Prov. Laws*, II, 651, 652; III, 304, 305; *Maryland Arch.*, XXIII, 317, 318.

<sup>83</sup> 22 & 23 Car, II, c. 26.

### 1051. ENFORCEMENT OF STAPLE ACT

Whereas by the aforesaid *Act for the Encouragement of Trade* no commodities of the growth, production, or manufacture of Europe (except salt for the fisheries of New England and Newfoundland, wines of the growth of the Madeiras or Western Islands or Azores, servants and horses from Scotland and Ireland, and all sorts of victuals of the growth of Scotland and IRELAND) shall be imported into any of our colonies or plantations but what shall be *bona fide* and without fraud laden and shipped in England, Wales, or Berwick, and in ships duly qualified; you shall use your utmost endeavor for the due observance thereof; and if, contrary hereunto, any ship or vessel shall import into our province of — any commodities of the growth, production, or manufacture of Europe (but what are before excepted), of which due proof shall not be made that the same were shipped or laden in some port of England, Wales, or Berwick, by producing cocquets or certificates under the hands and seals of the officers of our customs in such port or place where the same were laden, such ship or vessel and goods will be forfeited; and you are to give in charge that the same be seized and prosecuted accordingly.

A—After IRELAND add: “and salt to the province of Pennsylvania and New York, in pursuance of two acts, the one passed in the 13th year of his said late Majesty’s reign,<sup>34</sup> and the other in the third year of our reign”.<sup>35</sup>

B—After IRELAND add: “and salt to the provinces of Pennsylvania, New York, Nova Scotia, and Quebec, in pursuance of five acts passed in the thirteenth year of the reign of King George the First, in the third year of his late Majesty’s reign, and in the second, fourth, and sixth years of our reign”.<sup>36</sup>

Included in text form in all trade instructions issued from 1685 until 1738. Included in form A in all issued from 1738 until 1767.<sup>37</sup> Included in form B in all issued from 1767 until Revolution.

<sup>34</sup> 13 Geo. I, c. 5.

<sup>35</sup> 3 Geo. II, c. 12.

<sup>36</sup> 2 Geo. III, c. 24; 4 Geo. III, c. 19; 6 Geo. III, c. 42.

<sup>37</sup> The New York instruction of 1765 includes “Nova Scotia” after “Pennsylvania and New York” in addition A and refers to “three acts” instead of two, but fails to cite the third act, obviously 2 Geo. III, c. 24.

**1052. PREVENTION OF VIOLATION OF STAPLE ACT**

And in order to prevent the acceptance of forged cocquets or certificates, which hath been practiced to our great prejudice, you are to give effectual orders that for all such European goods as by the said act are to be shipped and laden in England, Wales, or Berwick, cocquets for the same from hence be produced to the collector or other officers of our customs in our province of — for the time being, before the unlading thereof; and you shall give order that no European goods be landed but by warrant from the said collector, in the presence of an officer appointed by him. And, for the better prevention of frauds of this kind, you shall take care that, according to the said act of trade, no ship or vessel be permitted to lade or unlade any goods or commodities whatsoever until the master or commander thereof shall first have made known to you or such officer or other person as shall be thereunto authorized and appointed, the arrival of the said ship or vessel, with her name, and the name or surname of her master, and hath shown that she is a ship duly navigated and otherwise qualified according to law, and hath delivered to you or such other person a true and perfect inventory of her lading, together with the place or places in which the said goods were laden and taken into the said ship or vessel, under forfeiture of such ship and goods.

Included in all trade instructions, 1685—Rev.

**1053. ALLOW NO LAWS CONTRARY TO NAVIGATION ACTS**

You shall not make or allow of any laws, by-laws, usages, or customs in our province of — which are repugnant to any of the laws hereinbefore mentioned, or any of them, so far as they do relate to our said plantations or any of them, or to any other law hereafter to be made in this our kingdom, so far as such laws shall relate to and mention the said plantations; but you shall declare all such laws, by-laws, usages, or customs in our province of — which are anywise repugnant to the before-mentioned laws or to any of them to be illegal, null, and void to all intents and purposes whatsoever.

Included in all trade instructions, 1697—Rev.

**1054. GOVERNOR TO ASSIST CUSTOMS AND OTHER  
OFFICERS<sup>ss</sup>**

You shall be aiding and assisting to the collector and other OFFICERS appointed or that shall hereafter be appointed by the Commissioners of our Customs in England by and under the authority and direction of our Lord High Treasurer of England or Commissioners of our Treasury for the time BEING in putting in execution the several acts of parliament before mentioned. And you shall cause due prosecution of all such persons as shall any ways hinder or resist any of our said officers of OUR customs in the performance of their duty.

A—After OFFICERS add: “of our admiralty and customs”. After BEING add: “or by our High Admiral or Commissioners for Executing the Office of High Admiral of Great Britain for the time being”. After OUR add: “admiralty or”.

Included in text form in all trade instructions issued from 1697 until 1732; included in form A in all issued from 1732 to the Revolution.

**1055. ASSEMBLY TO PROVIDE SURVEYOR GENERAL WITH  
COPIES OF RECORDS<sup>ss</sup>**

It is likewise our will and pleasure and you are hereby required by the first opportunity to move the assembly of our said province that they provide for the expense of making copies for the SURVEYOR GENERAL of our customs in our said province for the time being of all acts and papers which bear any relation to the duty of HIS office; and in the meantime you are to give orders that the said SURVEYOR GENERAL for the time being as aforesaid be allowed a free inspection in the public offices within your government of all such acts and papers without paying any fee or reward for the same.

A—Omit (first) SURVEYOR GENERAL and substitute: “principal officers”. Omit HIS and substitute: “their”. Omit (second) SURVEYOR GENERAL and substitute: “said officers”.

Bahamas: 1759—Rev.

Barbados: 1761—Rev.

Bermuda: 1761—Rev.

Dominica: 1770—Rev.

East Florida: 1773—Rev. A.

Georgia: 1754—Rev.

<sup>ss</sup> Cf. above, § 537.

<sup>ss</sup> See also above, § 62 for inclusion of this article in the general instructions.

Grenada: 1763—Rev.	Nova Scotia: 1752—Rev.
Jamaica: 1752—Rev.	Quebec: 1768—Rev. A.
Leeward Is: 1753—Rev.	St. John: 1769—Rev. A.
Massachusetts: 1741—71; 1771—Rev. A.	St. Vincent: 1776—Rev.
New Hampshire: 1741—Rev.	South Carolina: 1788—74; 1774—Rev. A.
New Jersey: 1747—Rev.	Virginia: 1761—68; 1768—Rev. A.
New York: 1741—70; 1770—Rev. A.	West Florida: 1767—70; 1770—Rev. A.
North Carolina: 1754—71; 1771—Rev. A.	

### 1056. BRITISH JURIES FOR CASES UNDER NAVIGATION ACTS

You shall take care that upon any actions, suits, and informations that shall be brought, commenced, or entered in the said plantations upon any law or statute concerning our duties or ships or goods to be forfeited by reason of any unlawful importation or exportation, there be not any jury but of such only as are natives of England, or Ireland, or are born in any of our said plantations.

Included in all trade instructions, 1697—Rev.

### 1057. GREENWICH HOSPITAL SIXPENCE

Whereas the commissioners appointed for collecting the sixpence per month from seamen's wages for our Royal Hospital at Greenwich pursuant to an act of parliament passed in the second year of our reign, entitled *An Act for the More Effectual Collecting in Great Britain and Ireland and Other Parts of His Majesty's Dominions the Duties Granted for the Support of the Royal Hospital at Greenwich*,<sup>40</sup> have given instructions to their receivers in foreign parts for their government therein; it is therefore our will and pleasure that you be aiding and assisting to the said receivers in your government of — in the due execution of their trusts. AND for your information we have graciously been pleased to annex hereto a copy of the commissioners' instructions to such receivers.

A—Omit from AND to the end.

Circular: Bahamas, Barbados, Bermuda, Connecticut, Jamaica, Maryland, New Jersey, New York, Nova Scotia, Pennsylvania, Virginia: Feb. 2, 1750.<sup>41</sup>

<sup>40</sup> 2 Geo. II, c. 7.

<sup>41</sup> Not sent as an additional instruction to the governors of the Leeward Islands, Massachusetts, New Hampshire, North Carolina, and South Carolina, in 1750 because included in trade instructions of that year.

Included in text form in all trade instructions issued from 1730 until 1758; included in form A in all issued from 1752 to the Revolution.

### 1058. ENFORCEMENT OF MOLASSES ACT

And whereas by an act passed in the sixth year of our reign entitled *An Act for the Better Securing and Encouraging the Trade of His Majesty's Sugar Colonies in America*,<sup>42</sup> a duty is laid on all rum, molasses, syrups, sugar, and panales of the produce and manufacture of any of the plantations not in our possession or under our dominion, which shall be imported into any of our colonies or plantations; notwithstanding which we are informed that great quantities of foreign rum, molasses, syrups, sugar, and panales are clandestinely landed in our plantations without paying of the said duty; our will and pleasure is that you be aiding and assisting to the collectors and other officers of our customs in your government in collecting the said duties and seizing all such goods as shall be so clandestinely landed or put on shore without payment of the duty; and you shall cause due prosecution of all such rum, molasses, syrups, sugar, and panales as shall be seized for non-payment of the duty as well as the persons aiding or assisting in such unlawful importations or that shall hinder, resist, or molest the officers in the due execution of the said law.

A—After *America* add: “and by another act passed in the fourth year of our reign entitled *An Act for Granting Several Duties in the British Colonies and Plantations in America, etc.*”<sup>43</sup>

B—Add at end: “And you are to observe that our share of all penalties and forfeitures so recovered is, pursuant to the said act made in the fourth year of our reign, to be paid into the hands of our collector of the customs of the port or place where the same shall be recovered for our use.”

Included in text form in all trade instructions issued from 1738 until 1765; included in form A in those to New York, 1765, and South Carolina, 1766; included in forms A and B in all others issued from 1766 to the Revolution.

### 1059. REPORT LANDS SOLD TO FOREIGNERS

If you shall discover that any person or their assigns claiming any right or propriety in any islands or tracts of land upon the continent

<sup>42</sup> 6 Geo. II, c. 13.

<sup>43</sup> 4 Geo. III, c. 15.

of America by charters or letters patents shall at any time hereafter alienate, sell, or dispose of any of the said islands, tracts of land, or proprieties, other than to our natural-born subjects of England, Ireland, Wales, or Berwick without the license or consent of us, our heirs, and successors, signified by our or their order in council first had and obtained, you shall give notice thereof to us or to our Lord High Treasurer of England or Commissioners of our Treasury in England for the time being.

Included in all trade instructions, 1697—Rev.

#### 1060. COURT OFFICES TO BE HELD BY NATIVE SUBJECTS ONLY

You shall take care that all places of trust in the courts of law, or what relates to the treasury of our province of — be in the hands of our native-born subjects of England or Ireland or the plantations.

Included in all trade instructions, 1697—Rev.

#### 1061. TEMPORARILY FILL JUDICIAL VACANCIES

And that there may be no interruption or delay in matters of prosecution and execution of justice in our courts of judicature within our province of — by the death or removal of any of our officers employed therein, until we can be advised thereof and appoint others to succeed in their places, you shall make choice of persons of known loyalty, experience, diligence, and fidelity to be employed for the purposes aforesaid, until you shall have our approbation of them or the nomination of others from hence.

Included in all trade instructions, 1697—Rev.

#### 1062. CORRESPONDENCE WITH CUSTOMS COMMISSIONERS

You shall from time to time correspond with the Commissioners of our Customs in England for the time being and advise them of all failures, neglects, frauds, or misdemeanors of any of the officers of our customs in our said province — and shall also advise them as occasion shall offer of all occurrences necessary for their informa-

tion relating either to the aforesaid laws of trade and navigation or our revenue of customs and other duties under their management both in England and the plantations.

Included in all trade instructions, 1697-Rev.

### 1063. REGISTRATION OF SHIPS

Whereas by the aforesaid *Act for Preventing Frauds and Regulating Abuses in the Plantation Trade*<sup>44</sup> it is provided for the more effectual prevention of frauds which may be used to elude the intention of the said act by coloring foreign ships under English names, that FROM and after the twenty-fifth of March, 1698, no ship or vessel shall be deemed or pass as a ship of the build of England, Ireland, Wales, Berwick, Guernsey, Jersey, or any of our plantations in America, so as to be qualified to trade to, from, or in any of our said plantations, until the person or persons claiming property in such ship or vessel shall register the same in manner thereby directed; AND whereas by an act passed in the 9th and 10th years of our reign, entitled *An Act for the Enlarging the Time for Registering of Ships Pursuant to the Act for Preventing Frauds and Regulating Abuses in the Plantation Trade*,<sup>45</sup> nine months longer time from the said 25th day of March, 1698, are granted and allowed for the registering of such ships, and it is provided that all such ships or vessels being registered within the said nine months shall have and enjoy all such benefit and advantage of the aforesaid act as they might or could have had in case they had been registered before the said 25th of March, 1698; you shall take care that no foreign-built ship be permitted to pass as a ship belonging to our Kingdom of England, Ireland, Wales, or to the town of Berwick-upon-Tweed, until proof be made upon oath of one or more of the owners of such ship or vessel before the collector and comptroller of our customs in such port to which she belongs, or upon like proof before yourself, with the principal officer of our revenue residing in our fore-said province of —, if such ship shall belong to the said province, which oath you and the officers of our customs respectively are authorized to administer in manner thereby directed; and being attested by you and them so administering the same and registered

<sup>44</sup> 7 & 8 Wm. III, c. 22.

<sup>45</sup> 9 Wm. III, c. 42.

in due form according to the specimen hereunto annexed,<sup>46</sup> you shall not fail immediately to transmit a duplicate thereof to the Commissioners of our Customs in London in order to be entered in a general register to be there kept for that purpose; with penalty upon every ship or vessel trading to, from, or in any of our said plantations in America AFTER the said twenty-fifth day of March, AND nine months LONGER as aforesaid and not having made proof of her build and property as by the forementioned act is directed, that she shall be liable to such prosecution and forfeiture as any foreign ship (except prizes condemned in our High Court of Admiralty) would for trading with our plantations by the said law be liable unto, with this proviso, that all such ships as have been or shall be taken at sea by letters of marque or reprisal and condemnation thereof made in our High Court of Admiralty of this kingdom as lawful prize shall be specially registered mentioning the capture and condemnation instead of the time and place of building, with proof also upon oath that the entire property is British, before any such prize be allowed the privilege of a British-built ship according to the meaning of the said act; and that no ships' names registered be afterwards changed without registering such ship *de novo*, which by the said act is required to be done upon any transfer of property to another port, and delivering up the former certificate to be cancelled, under the same penalties and in like method. And in case of any alteration of property in the same port by the sale of one or more shares in any ship after registering thereof, such sale shall always be acknowledged by endorsement on the certificate of the register before two witnesses, in order to prove that the entire property in such ship remains to some of our subjects of this kingdom, if any dispute shall arise concerning the same.

A—Omit FROM . . . 1698 (line 5). Omit (first) AND . . . 1698 (line 20). Omit AFTER . . . LONGER.

B—Omit (first) AND . . . 1698 (line 20). Omit (second) AND . . . LONGER.

Included in text form in all trade instructions issued from 1697 until 1719 with the following exceptions: Maryland, 1697–98 B; Massachusetts, 1716–28 A.<sup>47</sup> Included in form A in all trade instructions issued from 1719 until the Revolution.

<sup>46</sup> See above, p. 775, note 32.

<sup>47</sup> This article is entirely omitted from the draft of circular trade instructions of 1697 printed in *House of Lords MSS.*, New Series, II, 494–499, but is included in the draft of the same prepared by the Commissioners of the Customs, May 17, 1697, given in C. O. 324: 6, p. 159.

### 1064. ENFORCE ACT FOR PREMIUM ON INDIGO

Whereas by the act passed in the 21st year of our reign for *Encouraging the Making of Indigo in the British Plantations in America*,<sup>48</sup> a premium of SIXPENCE per pound is allowed on the importation of indigo of the growth of the British plantations, and there are likewise contained in the said act several provisions to prevent frauds by importing foreign-plantation-made indigo or any false mixtures in what is made in the British plantations, with a view to recover the said premium; it is therefore our will and pleasure that, if there now are or hereafter shall be any plantations of indigo within our said province under your government, you do take particular care that the said provisions be duly and punctually complied with and do likewise from time to time transmit to our Commissioners for Trade and Plantations in order to be laid before us an account of all such plantations of indigo with the names of the planters and the quantity of indigo they make, as also the quantity of such indigo exported from the said province, distinguishing the time when exported, and the port where shipped, the names of the vessels and the port to which bound; and if there be any foreign indigo imported into the said province, it is our further will and pleasure that you do in like manner transmit an account of such foreign indigo imported, distinguishing the time when and the place from whence imported, together with an account of such foreign indigo exported and the port where shipped, the names of the vessels and the port to which bound.

A—After *America* add: “as the same stands continued and amended by an act passed in the third year of our reign”.<sup>49</sup> Omit SIXPENCE and substitute: “fourpence”.

Included in text form in all trade instructions issued from 1752 until 1766; included in form A in all from 1766 to the Revolution.

### 1065. ENFORCE WOOL ACT OF 1699

Whereas by an act passed in the 10th year of his late Majesty King William the Third to *Prevent the Exportation of Wool out of the Kingdoms of Ireland and England into Foreign Parts and for the*

<sup>48</sup> 21 Geo. II, c. 30.

<sup>49</sup> 3 Geo. III, c. 25.

*Encouragement of Woolen Manufactures in the Kingdom of England,*<sup>50</sup> it is amongst other things enacted that from and after the first day of December, 1699, no wool, woolfells, shortlings, mortlings, wool flocks, worsted, bay or woolen yarn, cloth, serge, bays, kerseys, says, frizes, druggets, cloth serges, shalloons, or any other drapery, stuffs, or woolen manufactures whatsoever made or mixed with wool or wool flocks being of the product or manufacture of any of the English plantations in America shall be laden or laid on board in any ship or vessel in any place or ports within any of the said English plantations upon any pretense whatsoever; as also that no such wool or other of the said commodities being of the product or manufacture of any of the said English plantations shall be loaden [sic] on any horse, cart, or other carriage to the intent and purpose to be exported, transported, carried, or conveyed out of the said English plantations to any other of our plantations or to any other place whatsoever upon the same and like pains, penalties, and forfeitures, to and upon all the offender and offenders therein, within all and every of our said English plantations respectively as are provided and prescribed by the said act for the said offenses committed within our kingdom of Ireland; you are to take effectual care that the true intent and meaning thereof as far forth as it relates to you be duly put in execution.

Included in all trade instructions, 1701-Rev.

#### 1066. ENFORCEMENT OF IRISH LINEN ACT

Whereas an act of parliament was passed in the third and fourth years of the reign of her late Majesty Queen Anne, entitled *An Act to Permit the Exportation of Irish Cloth to the Plantations and to Prohibit the Importation of Scotch Linen into Ireland,*<sup>51</sup> with several clauses and provisos for the due execution of the said act (a copy whereof will be herewith delivered to you) you are therefore to take care that the said act with all its clauses and provisos be duly observed and complied with in that our province under your government.

A—After *Ireland* add: "and continued by an act passed in the first year of our reign for Continuing Several Laws therein Men-

<sup>50</sup> 10 Wm. III, c. 16.

<sup>51</sup> 3 & 4 Anne, c. 7.

*tioned Relating to Coals, Hemp and Flax, Irish and Scotch Linen, &c.,<sup>52</sup> which act is further continued by an act passed in the third year of our reign for Continuing the Liberty of Exporting Irish Linen to the British Plantations in America".<sup>53</sup>*

Included in text form in all trade instructions issued from 1707 until 1721; included in form A in all issued from 1721 until 1727 when the instruction is dropped.

#### 1067. PREVENTION OF IMPORTATION OF BULK TOBACCO (I)

In an act of parliament made in the tenth and eleventh years of his late Majesty's reign, entitled *An Act for Laying Further Duties upon Sweets and for Lessening the Duties As Well upon Vinegar as upon Certain Low Wines and Whale Fins and the Duties upon Brandy Imported, &c.<sup>54</sup>* there is a clause (copy whereof you shall herewith receive) to prevent frauds in the importation of bulk tobacco, enacting that from and after the 29th day of September, 1700, no tobacco shall be brought or imported into this Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, in any ship or vessel from any of the plantations on the continent of America, nor shipped in any of the said plantations in order to be so imported, otherwise than in cask, chest, or case ONLY, each cask, chest, or case whereof shall contain two hundredweight of tobacco at the least, and each hundred thereof shall contain 112 pounds under the penalties and forfeitures of all the tobacco so imported or shipped to be imported contrary to the said act to be forfeited and every person or persons offending contrary to the true intent and meaning thereof shall forfeit sixpence for every pound weight thereof, two-thirds thereof to us, our heirs, and successors, the other third part thereof to such persons as shall seize and sue for the same; it being provided that such small quantities as shall be necessary for the ship's company's smoking in the voyage shall not be deemed or construed any breach of the said ACT; you shall take care that this part of the said act be made public, that none may pretend ignorance and that the true intent and meaning thereof be duly put in execution within your government.

<sup>52</sup> 1 Geo. I, stat. 2, c. 26.

<sup>53</sup> 3 Geo. I, c. 21.

<sup>54</sup> 10 Wm. III, c. 10.

A—Omit ONLY . . . ACT and substitute: “containing two hundredweight of tobacco each, under penalty of forfeiture thereof and of sixpence per pound for every pound weight thereof, with a proviso for such small quantities as shall be necessary for the ship’s company’s smoking in the voyage”.

Included in text form in all trade instructions for continental provinces only,<sup>55</sup> issued from 1701 until 1727 and for Barbados and Jamaica until 1721 and 1717 respectively; included in form A in all trade instructions for continental provinces only, issued from 1727 until 1753. Thereafter see § 1069.

#### 1068. ALL STRIPPED TOBACCO TO BE SEIZED

And whereas it is further enacted by a clause in an act passed in the ninth year of his late Majesty’s reign entitled *An Act for Enabling His Majesty to Put the Customs of Great Britain under the Management of One or More Commissioners and for Better Securing and Ascertaining the Duties on Tobacco, &c.*,<sup>56</sup> that no tobacco shall be imported into Great Britain stripped from the stalk or stem, and in case any tobacco stripped from the stalk or stem shall be so imported the same shall be seized and be liable to be searched for and forfeited by any officer of the customs in the same manner as any other prohibited goods may by the laws now in being be searched for and seized, and all and every such penalties and forfeitures shall and may be recovered by information in our Court of Exchequer in England or Scotland respectively; you shall take care that these parts of the aforesaid act be made public that none may pretend ignorance and that the true intent and meaning thereof be duly put in execution in that government.

Included as an additional clause to § 1067 in trade instructions for New Jersey and New York issued in 1727, for Massachusetts, New Hampshire, and Virginia issued in 1728, and for Nova Scotia issued in 1729. Not included in any trade instructions issued in 1730 or thereafter.

#### 1069. PREVENTION OF IMPORTATION OF BULK TOBACCO (II)

In the act made in the 24th year of his late Majesty’s reign for the More Effectual Securing the Duties on Tobacco<sup>57</sup> there is a clause

<sup>55</sup> I. e., Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Nova Scotia, South Carolina, Virginia.

<sup>56</sup> 9 Geo. I, c. 21.

<sup>57</sup> 24 Geo. II, c. 41.

to prevent frauds in the importation of bulk tobacco, enacting that no tobacco shall be imported into this kingdom otherwise than in cask, chest, or case containing 450 pounds weight of tobacco each, under penalty of forfeiture thereof; you shall take care that this part of the said act be made public, that none may pretend ignorance and that the true intent and meaning thereof be duly put in execution within your government.

Included in all trade instructions (island as well as continental), 1753—Rev. For earlier form see § 1067.

### 1070. EAST INDIA TRADE

Whereas we have been informed that a clandestine trade is carried on as well by British as foreign ships from Madagascar and other parts beyond the Cape of Bona Esperanza within the limits of trade granted to the United East India Company directly to our plantations in America, to the great detriment of these realms and in breach of the several laws in force relating to trade and navigation; our will and pleasure is that you, our governor, or in your absence the commander in chief of our said province of — do duly and strictly observe the several good laws and statutes now in force for the regulating of trade and navigation, particularly the several acts of parliament already mentioned in your instructions, AND also those contained in the following list, viz:

- [1] An Act for Raising a Sum Not Exceeding Two Millions . . . and for Settling the Trade to the East Indies [9 Wm. III, c. 44];
- [2] An Act for the More Effectual Suppression of Piracy [11 Wm. III, c. 7];
- [3] An Act for the Preservation of White and Other Pine Trees Growing in Her Majesty's Colonies of New Hampshire, &c. [9 Anne, c. 22];<sup>58</sup>
- [4] An Act for the Further Preventing of Robbery . . . and for Declaring the Law upon Some Points Relating to Pirates [4 Geo. I, c. 11];
- [5] An Act against Clandestine Running of Uncustomed Goods, and for the More Effectual Preventing of Frauds Relating to the Customs [5 Geo. I, c. 11];

<sup>58</sup> This act was included only in the instruction of 1722 to the governors of Connecticut, Massachusetts, New Hampshire, New Jersey, New York, and Rhode Island.

[6] An Act for the Better Securing the Lawful Trade of His Majesty's Subjects to and from the East Indies . . . [5 Geo. I, c. 21];

[7] An Act for the Further Preventing His Majesty's Subjects from Trading to the East Indies under Foreign Commissions [7 Geo. I, c. 21];

[8] An Act for the Encouragement of the Silk Manufactures of This Kingdom and for Importation of All Furs of the Product of the British Plantations into This Kingdom Only, &c. [8 Geo. I, c. 15];

[9] An Act to Prevent the Clandestine Running of Goods, &c., and to Subject Copper Ore . . . to Such Regulations as Other Enumerated Commodities . . . Are Subject to [8 Geo. I, c. 18];

[10] An Act for the More Effectual Suppression of Piracy [8 Geo. I, c. 24];

copies of which acts you will herewith receive. AND if you our commander in chief for the time being shall be found negligent or remiss in your duty in an affair of so great importance to our service and the welfare of our subjects, it is our fixed and determined will and resolution that you or such commander respectively be for such offense not only immediately removed from your employments and be liable to the fine of £1,000 as likewise suffer such other fines and forfeitures, pains and penalties as are inflicted by the several laws now in force relating thereto, but shall also receive the most rigorous marks of our highest displeasure and be prosecuted with the utmost severity of the LAWS. And in order to the better execution of the laws and statutes above mentioned, upon the first notice of the arrival of any ship or ships within the limits of any port of or belonging to your government, which have or are suspected to have on board any Negroes, goods, or commodities of the growth, produce, or manufacture of the East Indies, Madagascar, or any other parts or places beyond the Cape of Bona Esperanza, within the limits of trade granted to the United East India Company pursuant to the forementioned act of the ninth and tenth of King William, you shall immediately cause the officers of our customs in your government (and any other officers or persons in aid of them) to go on board such ship or ships and to visit the same, and to examine the masters or other commanders, the officers, and sailors on board such ship or ships, and their charter-parties, invoices, cocquets, and other credentials, testimonials, or documents; and if they find that such ship or ships came from the East Indies, Madagascar, or any other part or places beyond the Cape of Bona Esperanza, within the limits

of trade granted to the said United East India Company, and that there are on board any such goods, commodities, or Negroes as is above mentioned, that they do give notice to the master or other such person having the command of such ship or ships forthwith to depart out of the limits of your government, without giving them any relief, support, aid, or assistance, although it should be pretended that such ship or ships were, or the same really should be in distress, want, disability, danger of sinking, or for or upon any other reason or pretense whatsoever. And that you our governor or commander in chief do by no means suffer any goods, merchandise, or Negroes from on board such ship or ships to be landed or brought on shore upon any account or excuse whatsoever. And it is our further will and pleasure that if any such ship or ships being foreign having on board any such goods, merchandise, or Negroes, do not upon notice given to the master or other person having the command thereof, as soon as conveniently may be, depart out of the limits of your government and from the coast thereof without landing, selling, or bartering any of the said goods or Negroes, you our governor or the commander in chief shall cause the said ship or ships and goods and Negroes to be seized and proceeded against according to law. But if such ship or ships having such goods or Negroes on board and entering into any port or place or coming upon any of the coasts or shores of our said province of — do belong to our subjects and do break bulk or sell, barter, exchange, or otherwise dispose of the said goods or Negroes or any part thereof contrary to law, you are to take care that such ship or ships with the guns, tackle, apparel, and furniture thereof and all goods and merchandises loaden thereupon and the proceed[s] and effects of the same be immediately seized, and that the laws in such case made and provided be put in execution with the greatest care, diligence, and application. But if any ship belonging to the subjects of any foreign state or potentate having on board any Negroes or East Indian commodities shall be actually bound to some port or place in the West Indies belonging to any foreign prince or state from some European port, and such ship shall happen to be driven in by necessity and be in real distress, the same may be supplied with what is absolutely necessary for her relief; but you shall not take, have, or receive, nor permit or suffer any person to take, have, or receive any Negroes or other the said East India commodities in payment or satisfaction for such relief. That if any officer of our customs or

other officer employed by you our governor or commander in chief in visiting, searching, or seizing such ship or ships, goods, merchandise, or Negroes be corrupt, negligent, or remiss in the discharge of his duty therein, we do hereby require you to suspend him from the execution of his said office, and that you do by the first opportunity send an account of such officer's behavior to one of our principal secretaries of state, and to our Commissioners for Trade and Plantations, that care may be taken that such officer be removed from his employment and further punished according to his demerit. And our further will and pleasure is that you our governor or commander in chief do constantly from time to time and by the first opportunity that shall offer send to one of our principal secretaries of state and to our Commissioners for Trade and Plantations true, full, and exact accounts of your proceedings and of all other transactions and occurrences in or about the premises or any of them.

A—Omit AND . . . LAWS (including enumeration of acts).

B—Omit acts nos. 3, 5, 8–10.

C—Omit acts nos. 3, 5, 8–10, but add: “[1] An Act for Reducing the Annuity or Fund of the United East India Company and for Ascertaining Their Right to Trade to the East Indies [3 Geo. II, c. 14].”

D—Omit AND [in line following list of acts] . . . LAWS.

E—Add at end: “And it is our further will and pleasure that the respective governors for the time being of the colonies of Connecticut, Rhode Island and Providence Plantations do, immediately upon their appointment to such government respectively, give unto you security for the due observation of all such instructions as are or shall be at any time sent them from us pursuant to the several acts of trade and navigation relating to the plantations, according to the forms of a bond prepared here by our attorney general for that purpose, which will be herewith delivered to you, and that you therefore accordingly require it from them.”<sup>59</sup>

**Circular:** Bermuda, Bahamas, Leeward Is., New Hampshire, New Jersey, New York, Nova Scotia, South Carolina, and Virginia (in text form); Massachusetts (in form E): June 3, 1722.<sup>60</sup>

Included in forms B and D in all trade instructions issued from 1722 (including those of that year for Barbados and Jamaica) until 1738; included in forms C

<sup>59</sup> See also below, § 1074.

<sup>60</sup> Also sent, with slight variations, to the proprietors of Maryland and Pennsylvania at the same time; and to the governors and companies of Connecticut and Rhode Island and to the Duke of Montagu, proprietor of the abortive colony of Santa Lucia and St. Vincent, as a part of complete sets of trade instructions issued in 1722. C. O. 5: 191, pp. 461–540; C. O. 324: 10, pp. 456–497.

and D in all issued from 1738 until 1752; included in form A in all issued from 1752 to the Revolution.

### 1071. ENFORCEMENT OF VARIOUS TRADE ACTS

Whereas in the third and fourth years of our reign an act of parliament has been passed, entitled *An Act for Granting to Her Majesty a Further Subsidy on Wines and Merchandises Imported*,<sup>61</sup> wherein among others there is a clause in the words following, viz: "And whereas by the acts made in the twelfth and twenty-fifth years of the reign of his late Majesty King Charles the Second, the former entitled *An Act for the Encouraging and Increasing of Shipping and Navigation*, and the latter entitled *An Act for the Encouraging of the Greenland and Eastland Trade and for the Better Securing the Plantation Trade*, certain commodities therein enumerated of the growth, production, or manufacture of any of the English plantations in America, Asia, or Africa are obliged to be imported into this Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, or to some other of the said plantations under the securities and penalties in the said acts particularly mentioned, to the end this kingdom might be made a staple, not only of the commodities of those plantations, but also of the commodities of other countries for supplying them; since the making of which laws several commodities which are not in the said acts particularly enumerated, such as rice and molasses, are produced and made in the said plantations and carried to divers foreign markets in Europe without being first brought into this kingdom, Dominion of Wales, and town of Berwick-upon-Tweed, contrary to the true intent and meaning of theforesaid laws, to the great prejudice of the trade of this kingdom and the lessening the correspondence and relation between this kingdom and the aforesaid plantations; for the prevention whereof for the future, be it enacted by the authority aforesaid that from and after the 29th day of September, 1705, all rice and molasses shall be under the like securities and penalties restrained to be imported into this kingdom, dominion of Wales, and town of Berwick aforesaid, as by the fore-recited acts or either of them is provided for the goods therein particularly enumerated." It is therefore our will and pleasure that you take particular care and give the necessary directions in our province of — under your government that the true

<sup>61</sup> 3 & 4 Anne, c. 3.

intent and meaning of the said clause be strictly and duly complied with.

[o] And whereas an act of parliament passed in the third and fourth years of our reign, entitled *An Act for Encouraging the Importation of Naval Stores from Her Majesty's Plantations in America*,<sup>62</sup> As likewise an act passed in the fifth year of our reign, entitled *An Act for an Union of the Two Kingdoms of England and Scotland*,<sup>63</sup> in which last are contained certain articles relating to the plantation trade, more particularly the fourth, fifth, and sixth, have been already sent YOU; AND whereas TWO OTHER ACTS have also been passed in the sixth year of our reign, entitled *An Act for Ascertaining the Rates of Foreign Coins in Her Majesty's Plantations in America*,<sup>64</sup> AND *An Act for the Encouragement of the Trade to America*,<sup>65</sup> copies whereof you will herewith RECEIVE, it is our further will and pleasure that you use your best endeavors that the said acts, with all the clauses, matters, and things therein contained, be in like manner strictly and duly observed in our said province, according to the true intent and meaning thereof.

A—In par. 2 omit AS . . . YOU.<sup>66</sup>

B—In par. 2 omit (first) AND . . . RECEIVE.

C—In par. 2 omit TWO OTHER ACTS and substitute: "another act". Omit (second) AND . . . [last] America.

D—After (last) America add: "and an act passed in the eighth year of her late Majesty's reign entitled *An Act for Continuing Several Impositions and Duties upon Goods Imported, &c., and to Limit a Time for Prosecution of All Plantation Bonds, &c.*"<sup>67</sup>

E—Omit par. 2.

**Circular:** Barbados, Bermuda, Jamaica, Leeward Is., Maryland, Massachusetts, New Hampshire: July 3, 1708.<sup>68</sup>

**Barbados:** July 3, 1708-1715; 1715-21 C; 1721-22 B; 1722-28 E.

**Bermuda:** July 3, 1708-1715; 1715-21 C; 1721-28 B.

**Jamaica:** July 3, 1708-1715; 1715-17 C; 1717-21 A, D; 1721-27 B.

**Leeward Is:** July 8, 1708-1715; 1715-21 C; 1721-28 B.

**Maryland:** July 3, 1708-1715.

**Massachusetts:** July 3, 1708-1728.

**New Hampshire:** July 3, 1708-1728.

**New Jersey:** 1708-20; 1720-27 A.

<sup>62</sup> 3 & 4 Anne, c. 11.

<sup>63</sup> 5 Anne, c. 11.

<sup>64</sup> 6 Anne, c. 57.

<sup>65</sup> 6 Anne, c. 64.

<sup>66</sup> See below, § 1072.

<sup>67</sup> 8 Anne, c. 14.

<sup>68</sup> Also sent as a circular instruction to the governors of the Carolinas, Connecticut, and Rhode Island.

New York: 1708-20; 1720-27 A. South Carolina: 1720-30.  
 Nova Scotia: July 3, 1708-19; 1719-29 Virginia: July 3, 1708-28.  
 A. D.

### 1072. EFFECT OF ACT OF UNION ON NAVIGATION ACTS

And whereas by some of the foregoing articles [see especially § 1071] grounded on several acts of parliament passed in England before the union of the two kingdoms of England and Scotland, the subjects of Scotland were excluded the benefit of the said acts, yet by the *Act for the Union of the Two Kingdoms*<sup>69</sup> passed in the fifth year of her late Majesty's reign (a copy whereof you will here-with receive), they were to enjoy all privileges and advantages in trading to our plantations as well as in other respects which our subjects of England did or might enjoy as is particularly specified by the fourth, fifth, and sixth articles of that act; you are to take care that the said act be duly complied with and that the subjects of Scotland be allowed all the benefits and advantages designed there by it, notwithstanding anything to the contrary in these or any other instructions to you.

Jamaica: 1717-21.  
 New Jersey: 1720-27.

New York: 1720-27.  
 Nova Scotia: 1719-29.

### 1073. PENALTY FOR FAILING TO ENFORCE NAVIGATION ACTS

And whereas the Lords Spiritual and Temporal in Parliament upon consideration of the great abuses practiced in the plantation trade did by an humble address<sup>70</sup> represent to [us, or our dearest brother the late king] the great importance it is of, both to this our kingdom and to our plantations in America that the many good laws which have been made for the government of the said plantations, and particularly the act passed in the seventh and eighth years of [our reign, or the reign of our said dearest brother] entitled *An Act for Preventing Frauds and Regulating Abuses in the Plantation Trade*<sup>71</sup> be strictly observed; you are therefore to take notice THAT,

<sup>69</sup> 5 Anne, c. 11.

<sup>70</sup> L. F. Stock, ed., *Proceedings and Debates of the British Parliaments respecting North America*, II, 204-206 (Mar. 17-18, 1696/7).

<sup>71</sup> 7 & 8 Wm. III, c. 22.

whereas notwithstanding the many good laws made from time to time for preventing of frauds in the plantation trade, it is nevertheless manifest that very great abuses have been and continue still to be practiced to the prejudice of the same, which abuses must needs arise either from the insolvency of the persons who are accepted for security or from the remissness or connivance of such as have been or are governors in the several plantations, who ought to take care that those persons who give bond should be duly prosecuted in case of non-performance; we, taking the good of our plantations and the improvement of the trade thereof by a strict and punctual observance of the several laws in force concerning the same to be of so great importance to the benefit of this our kingdom and to the advancing of the duties of our customs here, that if we shall be hereafter informed that at any time there shall be any failure in the due observance of those laws within our forementioned province under your government by any wilful fault or neglect on your part, we shall look upon it as a breach of the trust reposed in you by us, which we shall punish ~~WITH~~ the loss of your place in that government and such further marks of our displeasure as we shall judge reasonable to be inflicted upon you for your offense against us in a matter of this consequence that we now so particularly charge you with.

A—Omit from beginning through THAT.

B—Omit WE . . . YOU and substitute: "we shall esteem such neglect to be a breach of the aforesaid laws, and it is our fixed and determined will and resolution that you or the commander in chief respectively be for such offense not only immediately removed from your employments and be liable to the fine of £1,000 as likewise suffer such other fines, forfeitures, pains, and penalties as are inflicted by the several laws now in force relating thereto, but shall also receive the most rigorous marks of our highest displeasure and be prosecuted with the utmost severity of law".

C—Omit ~~WITH~~ . . . YOU and substitute: "not only by removing you from your employment in that government, but by causing you to suffer such fines, forfeitures, pains, and penalties as are inflicted by the several laws now in force relating thereunto and the most rigorous marks of our highest displeasure, and also to be prosecuted with the utmost severity of law".

Included in text form in all general instructions issued from 1697 until 1715 when the article is dropped from general instructions. Included also in text form in all trade instructions issued from 1697 until 1702 (except Maryland and Massachusetts, 1697, where it is in form A); included in form A in all trade instructions issued from 1702 until 1722 (except Jamaica, 1721, where it is in form C);

included in forms A and B in all trade instructions issued from 1722 until Revolution (except New Jersey and New York which continued form A only until 1732, when A and B appear).

#### 1074. GOVERNORS OF CONNECTICUT AND RHODE ISLAND TO GIVE SECURITY

And lastly, whereas the Lords Spiritual and Temporal in parliament have also by their forementioned address<sup>72</sup> humbly proposed to his Majesty that the colonies of Connecticut, Rhode Island and Providence Plantations having their governors and assistants chosen annually by the people there, having no proprietors here in England, and being become a great receptacle for pirates, and carrying on several illegal trades contrary to the acts for the government of the plantations, the governors of those several places may therefore be obliged to give security to observe and obey all instructions that shall be sent to them from his Majesty or any acting under his authority pursuant to the several acts of trade relating to the plantations; his Majesty's will and pleasure is that the respective governors of those forementioned colonies do give unto you such security according to the form of a bond prepared here by his attorney general for that purpose, which will be herewithall delivered you, and that you therefore accordingly require it from them.

Massachusetts: 1697-1702.<sup>73</sup>

#### 1075. ALL BUT COASTWISE SHIPS TO ENTER AND CLEAR WITH COLLECTOR

You are likewise to cause effectual orders to be given that all masters of ships not trading coastwise from one part of — to another do enter their ships with the collector of his Majesty's customs in the said province or his deputy for the time being, as well as with the naval officer, and also give in their contents upon oath to the said collector or his deputy.

Included in all trade instructions, 1685-97.

<sup>72</sup> L. F. Stock, ed., *Proceedings and Debates of the British Parliaments respecting North America*, II, 204-206 (Mar. 17-18, 1696/7).

<sup>73</sup> See also above, § 1070, form E.

### 1076. REPORT SHIPS EXPORTING ENUMERATED COMMODITIES

And whereas we have been informed that several ships and vessels have carried great quantities of the enumerated plantation goods from his Majesty's colonies and plantations to Holland, Hamburg, and other places without first landing the same in England, as the law in that case hath provided, to the great prejudice of his Majesty's customs and the trade and navigation of this kingdom; for preventing the like frauds for the future as much as in you lies, you are every year or oftener as occasion requires to send a list of all such ships or vessels as shall lade any of the enumerated plantation commodities within his Majesty's province of —, or import any European goods, according to the form herewith delivered to you, to the Commissioners of his Majesty's Customs in England for the time being at the custom house in London.

Included in all trade instructions, 1685-97.



## APPENDIX A

### LIST OF ROYAL GOVERNORS AND GENERAL INSTRUCTIONS

1670-1776

THE date preceding each name is that on which the general instructions were signed, not that of the governor's commission. When the date of the instructions cannot be ascertained, the date on which they were approved by the Privy Council is indicated in parentheses. References otherwise unexplained are to printed copies of the full text of a governor's general instructions.

#### BAHAMA ISLANDS

1718, February 6	Woodes Rogers
1721, August 29	George Phenney
1729, May 30	Woodes Rogers
1733, May 10	Richard Fitzwilliam
1740, August 21	John Tinker
1759, (March 8)	William Shirley
1761, (July 2)	William Shirley <sup>1</sup>
1768, (June 29)	Thomas Shirley
1774, June 2	Montfort Browne

#### BARBADOS

1672, June 10	William Willoughby, Lord Willoughby of Parham
1674, February 28	Sir Jonathan Atkins
1680, October 30	Sir Richard Dutton
1689, September 19	James Kendall
1694, January 4	Francis Russell
1697, November 27	Ralph Grey
1702, September 30	Sir Bevil Granville
1707, January 4	Mitford Crowe
1710, (August 28)	Robert Lowther

<sup>1</sup> Renewal following accession of George III.

1715, February 23	Robert Lowther <sup>2</sup>
1721, August 29	John Hamilton, Baron Belhaven and Stenton
1722, August 24	Henry Worsley
1728, July 25	Henry Worsley <sup>3</sup>
1732, December 14	Emanuel Scrope Howe, Viscount Howe
1739, October 19	Robert Byng
1742, February 20	Sir Thomas Robinson
1746, November 10	Henry Grenville
1756, (March 18)	Charles Pinfold
1761, (May 15)	Charles Pinfold <sup>4</sup>
1767, August 12	William Spry
1773, April 1	Edward Hay

## BERMUDA

[1684	Richard Cony	Lieutenant Governor] <sup>5</sup>
1686, October 31	Sir Robert Robinson	Lieutenant Governor
1690, April 3	Isaac Richier	Lieutenant Governor
1693, March 10	John Goddard	Lieutenant Governor
1698, January 17	Samuel Day	Lieutenant Governor
1700, September 24	Benjamin Bennett	Lieutenant Governor
1702, November 6	Benjamin Bennett <sup>6</sup>	Lieutenant Governor
1713, (April 15)	Henry Pulleyn	Lieutenant Governor
1715, (June 30)	Benjamin Bennett	Lieutenant Governor
1721, October 21	John Hope	Lieutenant Governor
1728, June 18	John Pitt	Lieutenant Governor
1738, April 7	Alured Popple	
1745, May 1	William Popple	
1755, (June 24)	William Popple <sup>7</sup>	
1761, June 30	William Popple <sup>8</sup>	
1764, May 23	George James Bruere	

## DOMINICA

1770, November 16	Sir William Young
1774, June 2	Thomas Shirley

<sup>2</sup> Renewal following accession of George I.<sup>3</sup> Renewal following accession of George II.<sup>4</sup> Renewal following accession of George III.<sup>5</sup> No general instructions found.<sup>6</sup> Renewal following accession of Queen Anne.<sup>7</sup> A revised set of general instructions.<sup>8</sup> Renewal following accession of George III.

## EAST FLORIDA

1763, December 7      James Grant  
 1773, August 3      Patrick Tonyn

## GEORGIA

1754, (August 6)      John Reynolds  
 1758, (July 8)      Henry Ellis  
 1761, July 6      Sir James Wright

## GRENADA

1763, December 7      Robert Melville  
 1771, July 9      William Leyborne Leyborne  
 1776, February 16      Sir George Macartney

## JAMAICA

1670, December 31	Sir Thomas Lynch	Lieutenant Governor
1674, December 3	John Vaughan, Lord Vaughan	
1678, March 30	Charles Howard, Earl of Carlisle	
1680, November 3	Charles Howard, Earl of Carlisle <sup>9</sup>	
1681, September 8	Sir Thomas Lynch	
1685, November 25	Sir Philip Howard	
1687, March 15	Christopher Monck, Duke of Albemarle	
1689, December 5	William O'Brien, Earl of Inchiquin	
1692, September 20	Sir William Beeston	Lieutenant Governor <sup>10</sup>
1701, (August 12)	William Selwyn	
1702, (August 24)	Charles Mordaunt, Earl of Peterborough	
1703, July 26	Thomas Handasyd	Lieutenant Governor <sup>11</sup>
1710, September 9	Lord Archibald Hamilton	
1715, May 6	Lord Archibald Hamilton <sup>12</sup>	
1716, May 28	Peter Heywood	Commander in Chief <sup>13</sup>
1718, January 1	Sir Nicholas Lawes	
1722, March 16	William Henry Bentinck, Duke of Portland	
1727, August 12	Robert Hunter	
1734, August 9	Henry Cunningham	

<sup>9</sup> Instructions for making laws, only.

<sup>10</sup> Raised to full governorship in 1700.

<sup>11</sup> Raised to full governorship in 1704.

<sup>12</sup> Renewal following accession of George I.

<sup>13</sup> Appointed commander in chief to inquire into accusations of piracy against Governor Hamilton.

## LIST OF ROYAL GOVERNORS

1738, January 12	Edward Trelawney
1752, May 28	Charles Knowles
1758, (May 8)	George Haldane
1761, (May 15)	William Henry Lyttelton
1767, August 12	Sir William Trelawney
1773, August 3	Sir Basil Keith

## LEEWARD ISLANDS

1671, January 31	Sir Charles Wheler
1672, January 31	William Stapleton
1686, November 28	Sir Nathaniel Johnson
1689, December 5	Christopher Codrington, Senior
1699, September 27	Christopher Codrington, Junior
1702, September 30	Christopher Codrington, Junior <sup>14</sup>
1704, (February 23)	William Mathew, Senior
1705, June 18	Daniel Parke
1711, April 12	Walter Douglas
1715, (September 9)	Walter Hamilton
1721, September 30	John Hart
1728, April 18	Thomas Pitt, Earl of Londonderry
1733, July 20	William Mathew, Junior
1753, May 10	George Thomas
1761, (July 2)	George Thomas <sup>15</sup>
1767, August 12	William Woodley
1771, August 9	Sir Ralph Payne

## MARYLAND

1691, August 26	Lionel Copley
	<i>Archives of Maryland</i> , VIII, 271-280.
1694, March 8	Francis Nicholson
	<i>Ibid.</i> , XXIII, 540-549. (Trade instructions, 1697) <i>Ibid.</i> , XXIII, 311-321.
1698, October 4	Nathaniel Blakiston
1703, May 4	John Seymour
1714, February 7	<i>Ibid.</i> , XXIV, 330-334, 367-371 (only 19 arts.). John Hart

<sup>14</sup> Renewal following accession of Queen Anne.<sup>15</sup> Renewal following accession of George III.

## MASSACHUSETTS

- 1691, December 31 Sir William Phips  
 1697, August 31 Richard Coote, Earl of Bellomont  
 1702, April 6 Joseph Dudley  
     *Mass. Hist. Soc. Collections, 3d ser. IX, 101-116.*  
 1715, (September 15) Elezeus Burges  
 1716, (July 24) Samuel Shute  
 1728, March 28 William Burnet  
 1730, May 8 Jonathan Belcher  
 1741, September 10 William Shirley  
     *C. H. Lincoln, ed., Correspondence of William Shirley, I, 43-72.*  
 1757, (March 1) Thomas Pownall  
 1760, March 18 Francis Bernard  
 1761, (May 15) Francis Bernard<sup>16</sup>  
 1771, April 13 Thomas Hutchinson  
 1774, April 4 Thomas Gage

## NEW ENGLAND, DOMINION OF

- 1686, September 12 Sir Edmund Andros  
     *New Hampshire Provincial Laws, I, 155-167.*  
 1688, April 12 Sir Edmund Andros<sup>17</sup>  
     *Ibid., I, 234-244; New York Colonial Documents, III, 543-549.*

## NEW HAMPSHIRE

- 1682, April 29 Edward Cranfield Lieutenant Governor  
     *New Hampshire Provincial Laws, II, 762-767.*  
 1692, March 7 Samuel Allen  
     *Ibid., I, 508-514; New Hampshire Provincial Papers, II, 63-69.*  
 1697, August 31 Richard Coote, Earl of Bellomont  
     *New Hamp. Prov. Laws, I, 621-632.*  
 1702, April 6 Joseph Dudley  
     *Ibid., II, 13-29.*  
 1715, (September 15) Elezeus Burges  
     *Ibid., II, 168-185.*  
 1716, (July 24) Samuel Shute  
     *Ibid., II, 218-236.*

<sup>16</sup> Renewal following accession of George III.<sup>17</sup> Renewal following expansion of Dominion of New England to include New York and New Jersey.

1728, March 28	William Burnet <i>Ibid.</i> , II, 418-441.
1730, May 8	Jonathan Belcher <i>Ibid.</i> , II, 467-490.
1741, September 10	Benning Wentworth <i>Ibid.</i> , II, 608-636. (Trade instructions) <i>Ibid.</i> , II, 636-652.
1761, June 30	Benning Wentworth <sup>18</sup> <i>Ibid.</i> , III, 251-281. (Trade instructions) <i>Ibid.</i> , III, 281-305.
1766, September 13	John Wentworth <i>Ibid.</i> , III, 421-453. (Trade instructions) <i>Ibid.</i> , III, 453-469.

## NEW JERSEY

1702, November 16	Edward Hyde, Viscount Cornbury A. Leaming and J. Spicer, <i>Grants, Concessions, and Original Constitutions of the Province of New-Jersey</i> (1752), pp. 619-646; Samuel Smith, <i>History of the Colony of Nova-Cæsaria, or New-Jersey</i> (1765), pp. 230-261; R. J. Field, <i>Provincial Courts of New Jersey</i> (N. J. Hist. Soc. Coll., III), pp. 210-243; <i>New Jersey Archives</i> , 1st ser., II, 506-536.
1708, June 27	John Lovelace, Baron Lovelace of Hurley
1709, December 27	Robert Hunter
1715, July 1	Robert Hunter <sup>19</sup>
1720, (June 11)	William Burnet
1727, October 20	John Montgomerie
1732, May 19	William Cosby
1738, July 21	Lewis Morris <i>New Jersey Arch.</i> , 1st ser., VI, 15-51.
1747, February 12	Jonathan Belcher
1758, January 31	Francis Bernard <i>Ibid.</i> , IX, 40-77; E. B. Greene, <i>The Provincial Governor</i> , pp. 234-260. (Trade instructions) <i>New Jersey Arch.</i> , 1st ser., IX, 77-107.
1760, March 18	Thomas Boone
1761, June 30	Josiah Hardy
1762, (September 1)	William Franklin

<sup>18</sup> Renewal following accession of George III.<sup>19</sup> Renewal following accession of George I.

## NEW YORK

- 1686, May 29 Thomas Dongan  
*New York Colonial Documents*, III, 369-375.  
 (Trade instructions) *Ibid.*, III, 382-385.
- 1690, January 31 Henry Slaughter  
*Ibid.*, III, 685-691.
- 1692, March 7 Benjamin Fletcher  
*Ibid.*, III, 818-824.
- 1697, August 31 Richard Coote, Earl of Bellomont  
*Ibid.*, IV, 284-292.
- 1701, November 26 Edward Hyde, Viscount Cornbury
- 1703, January 29 Edward Hyde, Viscount Cornbury<sup>20</sup>
- 1708, June 27 John Lovelace, Baron Lovelace of Hurley
- 1709, December 27 Robert Hunter  
*Ibid.*, V, 124-143.  
 (Trade instructions) *Ibid.*, V, 144-154.
- 1715, July 1 Robert Hunter<sup>21</sup>
- 1720, (June 11) William Burnet
- 1727, October 20 John Montgomerie
- 1732, May 19 William Cosby
- 1741, September 10 George Clinton
- 1753, August 13 Sir Danvers Osborn
- 1755, (May 13) Sir Charles Hardy
- 1761, July 6 Robert Monckton
- 1765, November 27 Sir Henry Moore
- 1770, June 11 John Murray, Earl of Dunmore
- 1771, February 7 William Tryon  
 C. Z. Lincoln, *Constitutional History of New York*, III, 710-756.

## NORTH CAROLINA

- 1730, December 14 George Burrington  
*Colonial Records of North Carolina*, III, 90-118.
- 1733, August 3 Gabriel Johnston
- 1754, June 24 Arthur Dobbs  
*Ibid.*, V, 1107-1144.
- 1761, June 30 Arthur Dobbs<sup>22</sup>

<sup>20</sup> Renewal following accession of Queen Anne.<sup>21</sup> Renewal following accession of George I.<sup>22</sup> Renewal following accession of George III.

1766, (February 17)

William Tryon

1771, February 7

Josiah Martin

### NOVA SCOTIA

[1713]

Francis Nicholson]<sup>23</sup>

1719, July 14

Richard Philips

1729, July 1

Richard Philips<sup>24</sup>

1749, May 2

Edward Cornwallis

1752, (May 7)

Peregrine Thomas Hopson

1756, (March 18)

Charles Lawrence

[1761]

Henry Ellis]<sup>25</sup>

1764, March 16

Montagu Wilmot

1766, September 13

Lord William Campbell

1773, August 3

Francis Legge

### PENNSYLVANIA

1692, October 28

Benjamin Fletcher

*New York Colonial Documents*, III, 861.

### QUEBEC

1763, December 7

James Murray

*Report on Canadian Archives*, 1904, pp. 193-210; Shortt and Doughty, *Documents Relating to the Constitutional History of Canada*, 1759-1791, pp. 132-149.

Guy Carleton

*Canadian Arch.*, 1904, pp. 211-228; Shortt and Doughty, *Documents*, pp. 210-226.

Guy Carleton<sup>26</sup>

*Canadian Arch.*, 1904, pp. 229-242; Shortt and Doughty, *Documents*, pp. 419-433.

(Trade instructions) *Canadian Arch.*, 1904, pp. 247-259; Shortt and Doughty, *Documents*, pp. 438-449.

### ST. JOHN (PRINCE EDWARD ISLAND)

1769, August 4

Walter Patterson

Alexander B. Warburton, *History of Prince Edward Island*, pp. 450-464.

<sup>23</sup> No general instructions were issued. Nicholson was a military governor only.

<sup>24</sup> Renewal partly in consequence of accession of George II.

<sup>25</sup> No general instructions have been found.

<sup>26</sup> Renewal in consequence of passage of Quebec Act.

## ST. VINCENT

1776, April 1

Valentine Morris

## SOUTH CAROLINA

1720, September 27

Francis Nicholson

*W. J. Rivers, A Chapter in the Early History of South Carolina, pp. 68-91.*

1730, September 17

Robert Johnson

1738, August 1

Samuel Horsey

1739, September 7

James Glen

1755, (December 18) <sup>27</sup>

William Henry Lyttelton

1761, November 11

Thomas Boone

1766, February 19

Lord Charles Greville Montagu

1774, August 5

Lord William Campbell

## VIRGINIA

1679, December 6

Thomas Culpeper, Baron Culpeper of Thoresway

1682, January 27

Thomas Culpeper, Baron Culpeper of Thoresway <sup>28</sup>*Virginia Magazine of History and Biography*, XXVI, 393-396; XXVII, 59-61, 326-335; XXVIII, 41-52; (his marginal comments, Sept. 2, 1683; *ibid.*, XXVIII, 356-358; XXIX, 52-57).

1683, October 24

Francis Howard, Baron Howard of Effingham

1685, August 30

Francis Howard, Baron Howard of Effingham <sup>29</sup>

1690, October 9

Francis Howard, Baron Howard of Effingham <sup>30</sup>

1692, March 7

Sir Edmund Andros

1698, September 13

Francis Nicholson

1702, December 12

Francis Nicholson <sup>31</sup>

<sup>27</sup> An earlier set of general instructions, of which no copy has been found, was approved May 13, 1755. It was sunk at sea when Lyttelton was captured by the French while on his way to the colony. The differences between the two sets are indicated in the Board of Trade representation, *Acts, Privy Coun., Col.*, 1745-66, pp. 278-279.

<sup>28</sup> Renewal.

<sup>29</sup> Renewal following accession of James II.

<sup>30</sup> Renewal following accession of William and Mary.

<sup>31</sup> Renewal following accession of Queen Anne.

## LIST OF ROYAL GOVERNORS

1705, April 30	Edward Nott
1707, April 30	Robert Hunter
1710, (February 23) <sup>32</sup>	George Hamilton, Earl of Orkney
1715, April 15	George Hamilton, Earl of Orkney <sup>33</sup> <i>Ibid.</i> , XXI, 3-8, 113-121, 225-233, 347-358; XXII, 14-15. (Trade instructions) <i>Ibid.</i> , XXII, 15-21, 113-121.
1728, March 22	George Hamilton, Earl of Orkney <sup>34</sup>
1738, (January 12)	William-Anne Keppel, Earl of Albemarle
1756, (March 18)	John Campbell, Earl of Loudoun
1761, May 27	Sir Jeffrey Amherst
1768, (August 12)	Norborne Berkeley, Baron de Botetourt
1771, February 7	John Murray, Earl of Dunmore Mass. Hist. Soc. <i>Collections</i> , 4th ser., X, 630-667. (Trade instructions) <i>Ibid.</i> , pp. 667-687.

## WEST FLORIDA

1763, December 7	George Johnstone
1767, August 12	John Eliot
1770, March 2	Peter Chester

<sup>32</sup> The date the instructions were submitted. The date of approval cannot be found.

<sup>33</sup> Renewal following accession of George I.

<sup>34</sup> Renewal following accession of George II.

## APPENDIX B

### REPRESENTATIVE COMMISSIONS TO GOVERNORS

THE commissions to royal governors contain far fewer variations from colony to colony and from year to year, especially in the eighteenth century, than do the instructions. The only ones which show a marked dissimilarity from the others with which they were contemporary are those to the governors of Massachusetts Bay, where the charter of 1691 restricted somewhat the powers which could be conferred upon the chief executives. These have all been printed.<sup>1</sup> Of the commissions to governors of other colonies on the continent at least three have been published for every decade from 1670 to 1776 except for the years 1670-79, 1730-39, and 1770-76.<sup>2</sup> These three periods and some of the colonies from which no commissions have been published heretofore have consequently been drawn upon in selecting representative commissions for inclusion here as illustrations of the normal type. The three commissions which follow are respectively from an island colony in the earliest decade covered by this work, from a typical continental province in the middle period, and from one of the colonies acquired by the Treaty of 1763 of a date just before the outbreak of the American Revolution.

#### COMMISSION TO SIR JONATHAN ATKINS, GOVERNOR OF BARBADOS

DRAFT SUBMITTED DECEMBER 19, 1673

[C.O. 29: 1, pp. 153-162]

Charles the Second by the Grace of God King of England Scotland, France & Ireland Defender of the Faith &c.

<sup>1</sup> Albert Matthews, *Massachusetts Royal Commissions, 1681-1774*, in *Publications of the Colonial Society of Massachusetts*, II, *Collections* (Boston, 1915).

<sup>2</sup> References to most of the commissions in print are to be found in C. M. Andrews, "List of Commissions, Instructions, and Additional Instructions Issued to the Royal Governors and Others in America," in the *Annual Report* of the

To our Trusty & welbeloved S<sup>r</sup> Jonathan Atkins K<sup>nt</sup> Greeting  
We reposing special Trust & confidence in your prudence, courage  
& loyalty out of our special Grace certain knowledge & meere mo-  
tion have thought fit to constitute & appoint and by these presents  
do constitute & appoint you the said S<sup>r</sup> Jonathan Atkins, our Cap-  
tain General & Governour in cheif in & over our Islands of Bar-  
badoes, St<sup>a</sup> Lucia, St<sup>t</sup> Vincent, Dominico, & the rest of our Islands,  
Colonies, & plantations in America commonly called or known by  
the name of the Carribbee Islands lying & being to windward of  
Guardaloupe & which now or hereafter shall be under our subjec-  
tion or Government

And we do hereby require & command you to do & execute all  
things in due manner that shall belong unto your said command or  
the trust we have reposed in you according to the several powers  
and directions granted or appointed you by this present Commis-  
sion & the instructions herewith given you or by such further Pow-  
ers or instructions as shall at any time hereafter be granted or ap-  
pointed you under our signet & sign manuel

And according to such reasonable Laws and Statutes as now or  
hereafter shall be made and agreed upon by you with the advice &  
consent of the Councills & Assemblies of the respective Islands &  
Plantations under your Government in such manner & form as is  
hereafter expressed

And we do hereby constitute & appoint John Willoughby Esqr<sup>e</sup>,  
S<sup>r</sup> Peter Colleton Bart: Henry Drax, Henry Hawley, Henry Wall-  
rond, Samuel Barwicke, Samuel Farmer, John Sparke, Samuel  
Newton, John Knight, Thomas Wardall, & William Sharpe Esqr<sup>s</sup>  
to be the Our Council of Our Islands of Barbadoes during our  
pleasure, who are to be assisting unto you with their advice in the  
management of the affairs & concerns of the Government of the  
said Islands of Barbadoes in relation to our service and the good  
of our Subjects there.

And whereas the other Island [sic] abovenamed are not yet so  
well planted as to give us occasion to inform ourselves of the es-  
tates & abilities of the present inhabitants We do hereby give and  
grant unto your Sir Jonathan Atkins full power & authority to  
choose a Council in each of the other Islands under your Govern-

American Historical Association for 1911, pp. 393-528. See also those printed  
in Albert S. Bachellor, ed., *The Laws of New Hampshire*, vols. I-III, *The  
Province Period* (Manchester 1904-15); and *The Virginia Magazine of History  
and Biography*, XIX, 240-247.

ment out of the principal freeholders inhabitants of the same respectively, each Council Consisting of the number of twelve persons respectively

And when it shall happen that by death departure out of the respective Islands, expulsion or suspension of any of the abovesaid Councillors of Barbadoes or any of the Councillors of any of the other Islands, or any otherwise, any place shall be vacant in any of the said respective Councils, each of which it is Our will & pleasure should consist of twelve persons, any seven whereof we do hereby appoint to be a quorum; we do hereby will and require you to certify us by the first opportunity of such vacancy by the death, departure, expulsion, suspension, or otherwise, of any of the respective Councillors in any of our said Islands that we may under our signet & sign manuel constitute & appoint others in their room.

But that our affairs at that distance may not suffer for want of a due number of Councillors if ever it shall happen that there was less than nine persons remaining in any of the said respective Councils, We do hereby give and grant unto you Sir Jonathan Atkins full power & authority to choose as many persons out of the Principal freeholders inhabitants of our said respective Islands as will make up the full number of each Council to be nine & no more, which persons so Chosen and appointed by you shall be to all intents & purposes Councillors in the said respective Islands till either they are confirmed by us, or till by the nomination of other Councillors by us under our Sign Manuel and Signet the said respective Councils have each of them about [above?] nine persons in them.

With Power to you the said S<sup>r</sup> Jonathan Atkins after you shall have first taken an oath for the due execution of the Office & Trust of Our Captain General & Governor in Chief in & over our said Islands (which the said Councill respectively, or any five of the number of each Councils have hereby full Power & Authority and are required to Administer unto you) to give & administer to each of the Members of the said Councils & to your Deputy Governors respectively as well the oath of Allegiance & supremacy as the oath for the due execution of their places & Trusts.

And we do hereby give & grant unto you full Power & Authority with the advice and consent of the said respective Councils to suspend or expel any of the Members of the said Councils if there shall be just cause for so doing

And we do hereby give & grant unto you full power & authority

with the advice & consent of the said Councils from time to time as need shall require to summon or call general Assemblies of the Freeholders & Planters within every of the respective Islands under your Government in manner & form according to the custom and usage of the Barbadoes

And our will & pleasure is that the persons thereupon duly elected by the major part of the Freeholders of the respective parishes & places so returned shall be called & held the representative of that Island or Plantation wherein they shall be chosen.

And shall have full power & authority with the advice & consent of yourself and of the said respective Councils to make constitute & ordain lawes, statutes [*sic*] & ordinances for the public peace welfare & good Government of the said Islands respectively and of the people & inhabitants of them, and such others as shall resort thereto & for the benefit of us our heirs & successors.

Which said Laws, statutes & ordinances are to be (as near as conveniently may be) agreeable unto the laws & statutes of Our Kingdom of England.

And the said Laws, statutes, & ordinances shall continue & be in force for the space of two years & no longer unless they shall be approved and confirmed by us, within the time limited as aforesaid.

And to the end nothing may be passed or done by any of the said Councils or Assemblies to the prejudice of us Our heirs or successors. We will and ordain that you the said S<sup>r</sup> Jonathan Atkins shall have & enjoy a negative voice in the making or passing of all Laws, statutes and ordinances as aforesaid.

And that you shall & may likewise from time to time as you shall judge it necessary dissolve all general assemblies or representatives as aforesaid.

And our will and pleasure is that you shall & may use the public seal already appointed by us for the Barbadoes

And we do hereby give & grant unto you full power & authority with the advice and consent of each of the said Councils respectively to erect constitute & establish such & so many Courts of Judicature & Public justice within the respective Islands under your Government as you and they shall think fit & necessary for the hearing & determining of all Causes as well Criminal as Civil according to law & equity and for awarding of execution thereupon

with all reasonable & necessary Powers, Authorities, Fees & Privileges unto them.

And we do hereby grant unto you full power & Authority to constitute & appoint judges, justices of the Peace, sheriffs and other necessary officers & Ministers in all & every the said Islands for the better administration of Justice & putting the Laws in execution.

And to administer such oath or oaths as are usually given for the due execution & performance of offices, places & charges & for the clearing of the truth in judicial Causes.

Provided always & our will and pleasure is that copies of all Establishments of Jurisdictions, Courts, officers & officers powers, authorities, fees & privileges granted or settled by you as aforesaid be with all convenient speed transmitted unto us to be allowed or disallowed as we shall judge fit

And we do hereby give & grant unto you full Power & authority where you shall see Cause or shall judge any offender or offenders in criminal matters or for any fines or forfeitures due unto us fit objects of our mercy to pardon & remit all such offenders fines or forfeitures before or after sentence given (Treason & wilfull murder only excepted) in which cases you shall likewise have power (or in your absence your Deputy upon extraordinary occasion) to grant repreives to the offenders therein until & to the intent our pleasure may be known therein.

And we do by these presents give and grant unto you full power & authority to present any person or persons to any Churches, Chapels, or other ecclesiastical Benefices within the said Islands & Plantations or any of them & as often as any of them shall happen to be void.

And we do hereby give & grant unto you the said Sr Jonathan Atkins by yourself your Captains & Commanders by you to be authorized full power & Authority to levy arms muster command or employ all persons whatsoever residing within the said Islands & Plantations & as occasion shall serve them to transfer from one Island to another for the resisting & withstanding of all enemies & pirates to that land & sea & to transport them to any of our Plantations in America if necessity shall require for the defence of the same against the invasion or attempt of any of our enemies.

And them if occasion shall require to pursue & prosecute in or out of the limits of the said Islands & plantations or any of them.

And if it shall please God them to vanquish apprehend & take, & being taken either according to the law of Arms to put to death or keep & preserve alive at your pleasure

And to do & execute all & every other thing which to a Captain General doth or ought of right to belong as fully & amply as any Captain General hath usually done within our Kingdom of England.

And also by and with the Advice & consent of the said Councills respectively to prepare & ordain articles of war and put the same in execution in time of insurrection, rebellion or invasion upon soldiers in pay only.

Which said articles of war are to be agreeable to those used in our Kingdom of England upon the like occasions

And we do hereby give & grant unto you full Power & authority by and with the advice & consent of the said Councils respectively to erect raise & build in the Island and places aforesaid or any of them such & so many forts, platforms, castles, cities, buroughs, towns & fortifications as by the advice aforesaid shall be judged necessary.

And the same or any of them to fortify & furnish with Ordnance, ammunition & all sorts of arms fit & necessary for the security & defence of our islands, colonies & plantations, and by the advice & consent aforesaid the same again or any of them to demolish or dismantle as may be most convenient

And we do hereby give & grant unto you the said Sr Jonathan Atkins full power & authority with the advice & consent of the said Councils respectively to erect one or more Court or Courts of Admiralty within the respective Islands under your Government for the hearing & determining of marine Causes and matters with all reasonable & necessary powers, authorities fees & privileges unto them.

And we do hereby authorize you to exercise all powers belonging to the place & office of our Vice Admiral of & in all the seas & coasts about our said Islands according to such Commission directions & instructions as you shall receive from our Commissioners for executing the Office of Lord High Admiral of England or from Our High Admiral of England for the time being.

And we do hereby likewise give & grant unto you full Power & authority by & with the advice and consent of the said Councils respectively to settle & agree with the Planters and Inhabitants of

Our said Islands concerning such land tenements & hereditaments as now are or hereafter shall be in your power to dispose.

And them to grant unto any person or persons for such term & under such moderate quit-rents services & acknowledgements to be thereupon reserved unto us as you by & with the advice aforesaid shall think fit

Which said grants are to pass & be sealed by the public seal of the Barbadoes, & being entered upon record of such office or officers as you shall appoint thereunto shall be good & effectual in Law against us our heirs and successors

And to hold fairs, marts & markets according as you with the advice of the said respective Councils shall think fit

And we do hereby give & grant unto you full power & authority to order and appoint within the said Islands & every or any of them respectively such & so many Ports, harbours, bays, havens, & other places for the conveniences & security of shipping & for the better loading & unloading of goods & merchandize in such & so many places as by you with the advice & consent of the said respective Councils shall be thought fit & convenient and in them or any of them to erect nominate & appoint customhouses warehouses & offices relating thereunto, and them to alter change place or displace from time to time as with the advice aforesaid shall be thought fit.

And our further will & pleasure is that you shall not at any time hereafter by colour of any power or authority hereby granted or mentioned to be granted take upon you to give grant or dispose of any office or place within any of the Islands, Colonies or Plantations under your Government which now are or have been granted by us or any of our Royal Predecessors under the great seal of England, any further then that you may upon the vacancy of any such office put in any person to officiate in the interval till the said Place be disposed of by us our Heirs or Successors under the great seal of England

And we do hereby require & command all officers & Ministers civil & military and all other inhabitants of our said Islands to be obedient aiding & assisting unto the said S<sup>r</sup> Jonathan Atkins in the execution of this our Commission & of the Powers and authorities therein contained.

And we do hereby give you full power & authority from time to time (as need shall require) to constitute appoint and comissionate

deputy Governors in the respective Islands and Plantations that either are or shall be under your command.

Unto all & every of which Deputy Governors we do hereby grant full power & authority to do & execute whatsoever they & every of them respectively shall be by you authorized & appointed in pursuance of & according to the powers & authorities granted to you in this Commission

And in case you shall happen to die Our will & pleasure is that the present Council of the Barbadoes do take upon them the administration of the Government and execute this Commission and the several powers & authorities herein contained until our pleasure shall be known therein

And lastly we do hereby declare and appoint that you the said S<sup>r</sup> Jonathan Atkins shall and may hold execute & enjoy the office or place of Captain General & Governer in Chief in & over the Barbadoes, S<sup>t</sup>a Lucia, S<sup>t</sup> Vincents, Dominco, and the rest of the Carribee Islands in America lying to windward of Guardaloup as aforesaid together with all and singular the Powers & Authorities hereby granted unto you for and during our will & pleasure.

We your Majesties Council of Trade & Plantations humbly offer to your Majesty this Draught of a Commission for S<sup>r</sup> Jonathan Atkins

19 December 1673

RICHARD GORGES  
H. BROUNCKER  
WILLIAM HICKMAN

HALLYFAX  
G. CARTERETT  
H SLINGESBY  
ED: WALLER

COMMISSION TO JAMES GLEN, GOVERNOR OF  
SOUTH CAROLINA

WARRANT TO PREPARE, JUNE 15, 1739

[C.O. 5: 198, pp. 77-96]<sup>1</sup>

GEORGE R.

Our Will and Pleasure is, that you prepare a Bill for Our Royal Signature to pass Our Great Seal of Great Britain in the Words or to the Effect following.

George the second by the Grace of God, of Great Britain, France

<sup>1</sup> From the transcript in the Division of Manuscripts, Library of Congress.

and Ireland, King, Defender of the Faith &c; To Our Trusty and Welbeloved James Glen Esqr. Greeting, We reposing especial Trust and Confidence in the Prudence, Courage and Loyalty of you the said James Glen of Our especial Grace, certain Knowledge and meer Motion have thought fit to constitute and appoint, and by these Presents do constitute and appoint you the said James Glen to be Our Governor in chief and Captain<sup>2</sup> General in and over Our Province of South Carolina in America.

And We hereby require and command you to do and execute all things in due Manner, that shall belong unto your said Command, and the Trust We have reposed in you, according to the several Powers and Authorities granted or appointed you by this present Commission, and the Instructions herewith given you, or by such further Powers, Instructions and Authorities, as shall at any time hereafter be granted or appointed you under Our Signet and sign Manual, or by Our Order in Our Privy Council, and according to such reasonable Laws and Statutes as now are in force, or hereafter shall be made & agreed upon by you with the Advice and Consent of Our Council and the Assembly of Our said Province under your Government, in such Manner and Form as is hereafter expressed.

And Our Will and Pleasure is, that You the said James Glen (after the Publication of these Our Letters Patents) do in the first Place take the Oaths appointed to be taken by an Act passed in the first Year of Our late Royal Fathers Reign, Entituled, *an Act for the further Security of his Majesty's Person & Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants, and for extinguishing the Hopes of the pretended Prince of Wales, and his open and secret Abettors.* As also that you make and subscribe the Declaration mentioned in an Act of Parliament made in the 25<sup>th</sup> Year of the Reign of King Charles the 2<sup>d</sup> Entituled, *An Act for preventing Dangers which may happen from Popish Recusants,* And likewise that you take such Oath as is usually taken by the Governor of Our Colony of Virginia, mutatis mutandis, for the due Execution of the Office and Trust of Our Governor of Our said Province for the due and impartial Administration of Justice; And further that you take the Oath required to be taken by Governors of Plantations to do their utmost that the several Laws relating to the Plantations be observed, which said

<sup>2</sup> The word "Lieutenant" was first written here, then struck through and "Captain" inserted. See *Acts, Privy Coun., Col., 1720-45*, pp. 621-622.

Oaths and Declaration, Our Council in our said Province or any three of the Members thereof have hereby full Power and Authority, and are required to tender and administer unto you: and in your Absence to Our Lieutenant Governor, if there be any upon the Place. All which being duly performed, you shall administer unto the Members of Our said Council, as also to our Lieut<sup>t</sup>. Governor, if there be any upon the Place, the said Oaths mention'd in the said Act Entituled, *An Act for the further Security of his Majesty's Person and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants, and for extinguishing the Hopes of the pretended Prince of Wales, and his open and secret Abettors;* as also to cause them to make and subscribe the aforementioned Declaration and to administer to them the Oath for the due Execution of their Places and Trusts.

And We do hereby given and grant unto you full Power and Authority to suspend any of the Members of Our said Council from sitting, voting and assisting therein, if you shall find just cause for so doing.

And if it shall at any time happen, that you the Death, Departure out of Our said Province, Suspension of any of our said Councillors or otherwise, there shall be a Vacancy in Our said Council (any three whereof We do hereby appoint to be a Quorum) Our Will and Pleasure is, that you signify the same unto Us by the first Opportunity, that We may under Our Signet and sign Manual constitute and appoint others in their Stead.

But that Our Affairs at that Distance may not suffer for want of a due Number of Councillors, if ever it shall happen that there be less than seven of them residing in Our said Province; We do hereby give and grant unto You the said James Glen full Power and Authority to choose as many Persons out of the Principal Freeholders, Inhabitants thereof, as will make up the full Number of Our said Council to be seven and no more; Which Persons so chosen and appointed by You, shall be, to all Intents and Purposes, Councillors in Our said Province, until either they shall be confirmed by Us, or that by the Nomination of others by Us under Our Sign Manual and Signet, Our said Council shall have seven or more Persons in it.

And We do hereby give and grant unto you full Power and Authority, with the Advice & Consent of Our said Council, from time to time, as Need shall require to summon and call General Assemblies of the said Freeholders and Planters within your Gov-

ernment, according to the Laws and Usages of Our said Province of South Carolina.

And Our Will and Pleasure is, that the Persons thereupon duly elected by the Major Part of the Freeholders, according to such Laws & Usages as aforesaid, and of the respective Counties and Places so returned, shall, before their sitting, take the Oaths mentioned in the said Act Entitulcd, *An Act for the further Security of his Majesty's Person and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants, and for extinguishing the Hopes of the pretended Prince of Wales & his open and secret Abettors.* As also to make and subscribe the foremention'd Declaration (which Oaths and Declaration you shall commissionate fit Persons under Our Seal of South Carolina, to tender and administer unto them, and until the same shall be so taken and subscribed, no Person shall be capable of sitting though elected) And We do hereby declare that the Persons so Elected and qualified shall be called and deem'd the General Assembly of that Our said Province, and Territory of South Carolina.

And that you the said James Glen with the Consent of Our said Council and Assembly or the Major Part of them respectively, shall have full Power and Authority to make, constitute and ordain Laws, Statutes and Ordinances for the Public Peace, Welfare and good Government of Our said Province, and of the People and Inhabitants thereof, and such others as shall resort thereto, and for the Benefit of Us, Our Heirs and Successors, Which said Laws, Statutes and Ordinances are not to be repugnant, but as near as may be, agreeable to the Laws and Statutes of this Our Kingdom of Great Britain.

Provided that all such Laws, Statutes, & Ordinances, of what Nature or Duration soever, be within three Months or sooner after the making thereof, transmitted unto Us, under Our said Seal of South Carolina, for Our Approbation or Disallowance of the same, as also Duplicates thereof by the next Conveyance.

And in case any or all of the said Laws Statutes and Ordinances not before confirmed by Us, shall at any time be disallowed and not approved, and so signified by us, Our Heirs or Successors under Our or their Signet or Sign Manual, or by Order of Our or their Privy Council, unto you the said James Glen, or to the Commander in chief of Our said Province for the time being, then such and so many of the said Laws Statutes and Ordinances as shall be

so disallowed and not approved, shall from thenceforth cease, determine and become utterly void and of none Effect, any thing to the contrary notwithstanding.

And to the End that nothing may be passed or done by Our said Council or Assembly to the Prejudice of Us, Our Heirs and Successors; we will and Ordain that you the said James Glen shall have and enjoy a Negative Voice in the making and passing of all Laws, Statutes and Ordinances, as aforesaid.

And you shall and may likewise from time to time as you shall judge it necessary, adjourn, prorogue and dissolve all General Assemblies, as aforesaid.

Our further Will & Pleasure is, that you shall and may keep and use the public Seal of Our Province or Territory of South Carolina, for sealing all things whatsoever that ought to pass the Seal of Our said Province under your Government.

And We do further give and grant unto you the said James Glen full Power & Authority from time to time, and at any time hereafter by yourself, or by any other to be authorized by you in that Behalf, to administer and give the Oaths mention'd in the said Act *for the further Security of His Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants, and for extinguishing the Hopes of the pretended Prince of Wales, and his open and secret Abettors,* to all and every such Person or Persons, as you shall think fit, who shall at any time or times pass into Our said Province, or shall be resident or abiding there.

And We do by these Presents give and grant unto you the said James Glen, full Power and Authority, with the Advice and Consent of Our said Council, to erect, constitute & establish such and so many Courts of Judicature, and Public Justice within Our said Province & Territory, as you and they shall think fit and necessary for the hearing and determining of all Causes as well criminal as civil, according to Law and Equity and for awarding of Execution thereupon with all reasonable and necessary Powers, Authorities, Fees and Privileges belonging thereunto, As also to appoint and commissionate fit Persons in the several parts of our Government, to administer the Oaths mention'd in the foresaid Act, as also to tender and administer the aforesaid Declaration, unto such Persons, belonging to the said Courts, as shall be obliged to take the same.

And we do hereby authorize & empower you to constitute and appoint Judges, and, in Cases requisite, Commissioners of Oyer & Termincr, Justices of the Peace & other necessary Officers, and Ministers in Our said Province, for the better Administration of Justice and putting the Laws in Execution; And to administer or cause to be administer'd unto them such Oath or Oaths as are usually given within Our said Colony of Virginia, for the due Execution & Performance of Offices and Places, and for the clearing of Truth in Judicial Causes.

And We do hereby give and grant unto you full Power and Authority, where you shall see Cause, or shall judge any Offender or Offenders in Criminal Matters, or for any Fines or Forfeitures due unto Us, fit Objects of Our Mercy, to pardon all such Offenders, and to remit all such Offences, Fines and Forfeitures, Treason and wilfull Murder, only excepted, in which case, you shall likewise have Power, upon Extraordinary Occasions to grant Reprieves to the Offenders, until and to the Intent Our Royal Pleasure may be known therein.

And We do by these Presents authorize and empower you to collate any Person or Persons to any Churches, Chappels or other Ecclesiastical Benefices within Our said Province and Territory aforesaid, to which We our Heirs and Successors are or shall be entitled to collate, as often as any of them shall happen to be void.

And We do hereby give and grant unto you the said James Glen by yourself or by your Captains and Commanders by you to be authorized, full Power and Authority to levy, arm, muster, command and employ all Persons whatsoever residing within Our said Province & Territory of South Carolina, and as Occasion shall serve, to march from one Place to another, or to embark them for the resisting and withstanding of all Enemies, Pyrates and Rebels, both at Land and Sea, and to transport such Forces to any of our Plantations in America, if necessity shall require, for the Defence of the same against the Invasion or Attempts of any of Our Enemies, and such Enemies, Pirates and Rebels (if there shall be Occasion) to pursue and prosecute in or out of the Limits of Our said Province & Plantations, or any of them; And (if it shall please God) them to vanquish, apprehend & take, and being taken, according to Law to put to Death or keep and preserve alive at your Discretion; And to execute Martial Law, in time of Invasion or other

times when by Law it may be executed, and to do and execute all and every other thing and things, appertaining to the Premises. Subject nevertheless to such Orders and Directions as you shall receive at any time from Us. And so as not to interfere with or derogate from the Powers and Authorities granted by Us to James Oglethorpe Esq<sup>r</sup>. whom We have appointed Our General and Commander in chief of Our Forces in Our Provinces of South Carolina and Georgia.

And We do hereby give and grant unto you full Power and Authority, by and with the Advice and Consent of Our said Council of South Carolina, to erect, raise and build in Our said Province and Territory such and so many Forts and Platforms, Castles, Cities, Boroughs, Towns and Fortifications as you by the Advice aforesaid shall judge necessary: and the same or any of them to fortify and furnish with Ordnance, Ammunition, and all Sorts of Arms fit and necessary for the Security and Defence of Our said Province; And by the Advice aforesaid, the same again or any of them to demolish or dismantle as may be most convenient.

And for as much as divers Mutinies and Disorders may happen by Persons shipt and employed at Sea during the time of War, and to the End that such as shall be shipp'd & employed at Sea during the Time of War, may be better govern'd and ordered; We do hereby give and grant unto you the said James Glen, full Power and Authority to constitute and appoint Captains Lieutenants Masters of Ships and other Commanders and Officers, and to grant to such Captains, Lieutenants, Masters of Ships and other Commanders and Officers, Commissions to execute the Law Martial according to the Directions of an Act passed in the 13<sup>th</sup> Year of the Reign of King Charles the 2<sup>d</sup> Entituled, *An Act for the establishing Articles and Orders for the regulating and better Government of His Majesty's Navys, Ships of War and forces by Sea*, during the time of War; and to use such Proceedings, Authoritys, Punishments corrections and Executions upon any Offender or Offenders, who shall be Mutinous, Seditious, disorderly or any way unruly, either at Sea or during the time of their Abode or Residence in any of the Ports, Harbours, or Bays of Our said Province and Territory, as the Cause shall be found to require, according to Martial Law, and the said Directions, during the time of War, as aforesaid. Provided that nothing herein contain'd shall be construed to the enabling you or any by your Authority, to hold Plea, or have any Jurisdiction

of any Offence, Cause, Matter or Thing committed or done upon the High Seas, or within any of the Havens, Rivers or Creeks of Our said Province and Territory under your Government, by any Capt<sup>a</sup>. Commander, Lieutenant Master, Officer, Seaman, Soldier or Person whatsoever, who shall be in Our actual Service and Pay, in or on Board any of Our Ships of War, or other Vessels acting by immediate Commission or Warrant from our Commissioners for executing the Office of Our High Admiral, or from Our High Admiral of Great Britain for the time being, under the Seal of Our Admiralty. But that such Captain Commander, Lieutenant Master, Officer, Seaman, Soldier or other Person, so offending shall be left to be proceeded against and tried as their Offences shall require, either by Commission under Our Great Seal of Great Britain, as the Statute of the 28th of Henry the 8<sup>th</sup> directs, or by Commission from Our said Commissioners for executing the Office of Our high Admiral, or from Our High Admiral of Great Britain for the time being, according to the foremention'd *Act for Establishing Articles and Orders for the regulating and better Government of his Majesty's Navy's, Ships of War and Forces by Sea*, and not otherwise; Provided nevertheless that all Disorders and Misdemeanours committed on Shoar by any Captain Commander, Lieutenant Master, Officer, Seaman, Soldier or other Person whatsoever, belonging to any of Our Ships of War or other Vessels acting by immediate Commission or Warrant from Our said Commiss<sup>rs</sup>. for Executing the Office of High Admiral or from Our high Admiral of Great Britain, for the time being, under the Seal of Our Admiralty, may be tried and Punished according to the Laws of the Place where any such Disorders, Offences and Misdemeanours shall be committed on Shore, notwithstanding such Offender be in Our actual Service, and born in Our Pay on Board any such of Our Ships of War or other Vessels acting by immediate Commission or Warrant from Our said Commiss<sup>rs</sup>. for executing the Office of High Admiral or Our high Admiral of Great Britain for the time being as aforesaid, so as he shall not receive any Protection for the avoiding of Justice, for such Offences committed on Shore, from any Pretence of his being employ'd in Our Service at Sea.

And Our further Will & Pleasure is, that all Public Money raised or which shall be raised by any Act hereafter to be made, within Our said Province, be issued out by Warrant from you, by and with the Advice and Consent of the Council, and disposed of by you for

the Support of the Government, and according to the Laws of Our said Province of South Carolina and not otherwise.

And We do likewise give and grant unto you full Power and Authority, by and with the Advice and Consent of Our said Council to settle and agree with the Inhabitants of Our said Province, for such Lands, Tenements & Hereditaments as now are or hereafter shall be in Our Power to dispose of, and them to grant to any person or persons upon such Terms and under such moderate Quit-Rents, Services and Acknowledgements, to be thereupon reserved unto Us, as you by the Advice aforesaid shall think fit; Which said Grants are to pass and be sealed by Our public Seal of Our said Province, and being entred upon Record by such Officer or Officers as are or shall be appointed thereunto, shall be good and effectual in Law, against Us, Our Heirs & Successors.

And We do hereby give and grant unto you the said James Glen full Power to order and appoint Fairs, Marts and Markets, as also such and so many Ports, Harbours, Bays, Havens and other Places for Convenience and Security of Shipping, and for the better loading & unloading of Goods and Merchandizes, as by you with the Advice and Consent of the said Council shall be thought fit and necessary.

And We do hereby require & command all Officers and Ministers Civil and Military, and all other Inhabitants of Our said Province and Territory to be obedient, aiding & assisting unto you the said James Glen in the Execution of this Our Commission and of the Powers and Authorities herewith contain'd, and in case of your Death or Absence out of Our said Province, to be Obedient, Aiding and Assisting unto such Person as shall be appointed by Us, Our Heirs, and Successors to be Lieutenant Governor or Commander in chief, of Our said Province, to whom We do therefore by these Presents give and grant all and singular the Powers and Authorities herein granted, to be by him Executed and enjoyed, during Our Pleasure, or until your Arrival within Our said Province, and whom We do hereby require to take all such Oaths and make such Declaration as are herein before appointed to be taken and made by you, mutatis mutandis, which said Oaths and Declaration Our said Council in Our said Province, or any three of the Members thereof, have hereby full Power and are hereby required to tender & administer.

And if upon your Death, or Absence out of Our said Province,

there be no Person upon the Place commissionated or appointed by Us, to be Our Lieutenant Governor or Commander in chief of Our said Province; Our Will & Pleasure is that the Eldest Council-lor, whose Name is first placed in Our said Instructions to you, and who shall be, at the time of your Death or Absence, residing within Our said Province & Territory of South Carolina, shall take upon him the Administration of the Government and Execute Our said Commission and Instructions, and the several Powers and Authorities therein contain'd in the same Manner, and to all Intents and Pur-poses as other Our Governor or Commander in Chief should or ought to do, in case of your Absence until your Return, or in all Cases until Our further Pleasure be known therein.

And we do hereby declare, ordain and appoint that you the said James Glen shall and may hold execute and enjoy the Office and Place of Our Governor in chief & Captain<sup>3</sup> General of Our said Province & Territory of South Carolina, with all its Rights Mem-bers and Appurtenances, whatsoever, together with all and singular the Powers and Authorities hereby granted unto you, for and during Our Will and Pleasure. In Witness whereof We have caused these Our Letters to be made Patents. Witness &c.—

And for so doing this shall be your Warrant Given at Our Court at Kensington the 15<sup>th</sup> day of June 1739 in Thirteenth Year of Our Reign

By His Majesty's Command  
HOLLES NEWCASTLE

To Our Attorney or  
Sollicitor General

[Endorsed] Draught of a Commiss<sup>a</sup>. / for James Glen Esq<sup>r</sup> to be  
Governor of S<sup>o</sup>. Carolina / June 15<sup>th</sup> 1739

### COMMISSION OF PATRICK TONYN, GOVERNOR OF EAST FLORIDA

DRAFT SUBMITTED JUNE 14, 1773

[C. O. 5: 563, pp. 306-339]<sup>1</sup>

George the Third by the Grace of God of Great Britain, France and Ireland King, Defender of the Faith &c. To Our Trusty and

<sup>3</sup>The word "Lieutenant" was first written here, then struck through and "Captain" inserted.

<sup>1</sup> From the transcript in the Division of Manuscripts, Library of Congress.

Wellbeloved Patrick Tonyn Esquire Greeting. Whereas We did by Our Letters Patent under Our Great Seal of Great Seal [sic] of Great Britain, bearing date at Westminster the Twenty first day of November in the fourth Year of Our Reign, Constitute and Appoint James Grant Esquire Captain General and Governor in Chief in and over Our Province of East Florida in America bounded to the Westward by the Gulph of Mexico and the Apalachicola River; to the northward by a line drawn from that part of the said River where the Chatahonchee and Flint Rivers meet, to the Source of Saint Mary's River and by the Course of the said River to the Atlantick Ocean; and to the Eastward and Southward by the Atlantick Ocean and the Gulph of Florida, including all Islands within Six Leagues of the Sea Coast, for and during Our Will and Pleasure, as by the said recited Letters Patent, relation being thereunto had may more fully and at large appear; Now know You, that We have revoked and determined and by these presents do revoke and determine the said recited Letters Patent and every Clause, Article and thing therein contained; And further Know You, that We reposing especiall Trust and Confidence in the Prudence Courage and Loyalty of You the said Patrick Tonyn of Our Especial Grace certain knowledge and mere motion have thought fit to Constitute and appoint You the said Patrick Tonyn to be Our Captain General and Governor in Chief of Our said Province of East Florida, comprehended within the limits and bounds above described in Our said recited Letters Patent

And We do hereby require and command you to do and execute all things in due Manner that shall belong to your said Command and the Trust We have reposed in You according to the several Powers and Directions granted or appointed you by this present Commission and the Instructions and Authorities herewith given you, or by such further Powers, Instructions and Authorities, as shall at any time hereafter be granted or appointed you under Our Signet and Sign Manual or by Our Order in Our Privy Council and according to such reasonable Laws and Statutes as shall hereafter be made and agreed upon by you with the Advice and Consent of the Council and Assembly of Our said Province under Your Government in such manner and form as is hereafter expressed.

And Our Will and Pleasure is that You the said Patrick Tonyn do, after the Publication of these Our Letters Patent, in the first place take the Oaths appointed to be taken by an Act passed in the

first Year of the Reign of King George the first intituled An Act for the further Security of His Majesty's Person and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia, being Protestants and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret Abettors as altered and explained by an Act passed in the Sixth Year of Our Reign, intituled "An Act for altering the Oath of Abjuration, and the Assurance; and for amending so much of an Act of the seventh Year of Her late Majesty Queen Anne, intituled, An Act for the improvement of the Union of the two Kingdoms as after the time therein limited, requires the delivery of certain Lists and Copies, therein mentioned to persons indicted of High Treason or Misprison of Treason;" as also that You make and subscribe the Declaration mentioned in An Act of Parliament made in the 25th Year of the Reign of King Charles the second, intituled An Act for preventing Dangers which may happen from Popish Recusants and likewise that You take the Oath usually taken by Governors in other Colonies for the due Execution of the Office and Trust of Our Captain General and Governor in Chief in and over Our said Province, and for the due and impartial Administration of Justice; and further that You take the Oath required to be taken by Governors of the Plantations to do their utmost that the several Laws relating to Trade and the Plantations be duly observed; which said Oaths and Declaration, Our Council of Our said Province or any three of the Members thereof have full Power and Authority and are required to tender and Administer to You; all which being duly performed, You shall yourself Administer unto each of the Members of Our said Council and also to the Deputy or Lieutenant Governor of Our said Province (if there shall be any such) the said Oaths mentioned in the said Act intituled An Act for the further Security of His Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants, and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors as altered and explained by the aforesaid Act "for altering the Oath of Abjuration, and the Assurance; and for amending so much of an Act of the seventh Year of Her late Majesty Queen Anne, intituled, An Act for the improvement of the Union of the two Kingdoms, as after the time therein limited, requires the delivery of certain lists and Copies therein mentioned to Persons indicted of High Treason or Misprison of Treason" as

also cause them to make and subscribe the aforementioned Declaration and to administer unto them the usual Oaths for the due Execution of their Places and Trusts.

And We do further give and grant unto You the said Patrick Tonyn full Power and Authority from time to time and at any time hereafter, by Yourself or by any other to be Authorized by You in this behalf to Administer and give the Oaths mentioned in the said Act for the further security of His Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants, and for extinguishing the hopes of the pretended Prince of Wales and his open and Secret Abettors as altered and explained by the aforesaid Act "for altering the Oath of Abjuration, and the Assurance; and for amending so much of An Act of the seventh Year of Her late Majesty Queen Anne, intituled, An Act for the improvement of the Union of the two Kingdoms, as, after the time, therein limited, requires the delivery of certain Lists and Copies, therein mentioned to Persons indicted of High Treason or misprison of Treason": to all and every such Person and Persons as you shall think fit, who shall at any time or times pass into Our said Province or shall be resident or Abiding there.

And We do hereby authorize and impower you to keep and use the Public Seal of Our Province of East Florida for sealing all Things whatsoever that shall pass the Great Seal of Our said Province.

And We do hereby give and grant unto You, the said Patrick Tonyn, full Power and Authority, with the Advice and Consent of Our said Council, so soon as the situation and Circumstances of Our Province under Your Government will admit thereof, and when and as often as need shall require, to summon and call General Assemblies of the Freeholders and Planters within the Province under Your Government, in such manner as you in your Discretion shall judge most proper, or according to such further Powers, Instructions, and Authorities, as shall be at any time hereafter granted or appointed You under Our Signet and Sign Manual, or by Our Order in Our Privy Council.

And Our Will and Pleasure is that the Persons thereupon duly elected by the Major part of the Freeholders of the respective Parishes or Precincts so returned, shall before their sitting take the Oaths mentioned in the said Act, entituled "An Act for the further security of His Majesty's Person and Government, and the Suc-

cession of the Crown in the Heirs of the late Princess Sophia, being Protestants and for extinguishing the Hopes of the pretended Prince of Wales and his open and Secret Abettors as altered and explained by the aforesaid "Act for altering the Oath of Abjuration and the Assurance; and for Amending so much of An Act of the Seventh Year of Her late Majesty Queen Anne, intituled An Act for the improvement of the Union of the Union [sic] of the two Kingdoms as after the time therein limited requires the delivery of certain Lists and Copies therein mentioned, to Persons indicted of High Treason or Misprison of Treason" as also make and subscribe the aforementioned Declaration which Oaths and Declaration you shall commissionate fit Persons under the Public Seal of that Our Province, to tender and Administer unto them; and until the same shall be so taken and subscribed no Person shall be capable of sitting tho' elected, And We do hereby declare, that the Persons so elected and qualified, shall be called and deemed the Assembly of Our said Province:

And that You the said Patrick Tonyn by and with the Advice and Consent of Our said Council and Assembly or the Major part of them shall have full power and Authority to make Constitute and Ordain Laws, Statutes and Ordinances for the public Peace Welfare and good government of Our said Province and of the People and Inhabitants thereof, and such others as shall resort thereunto, and for the Benefit of Us, Our Heirs and Successors; which said Laws Statutes and Ordinances are not to be repugnant but as near as may be agreeable to the Laws and Statutes of this Our Kingdom of Great Britain.

Provided that all such Laws Statutes and Ordinances of what nature or duration soever be within three Months or sooner after the making thereof transmitted to Us Under Our Seal of Our said Province, for Our Approbation or disallowance of the same, as also Duplicates thereof by the next Conveyance.

And in case any or all of the said Laws Statutes or Ordinances not before confirmed by Us shall at any time be disallowed and not Approved and so Signified by Us, Our Heirs and Successors under Our or their Signet and Sign Manual or by Order of Our or their Privy Council unto You the said Patrick Tonyn or to the Commander in Chief of Our said Province for the time being, then such and so many of the said Laws Statutes and Ordinances as shall be so disallowed and not approved shall from thenceforth Cease, determine

and become utterly Void and of none effect, any thing to the contrary thereof notwithstanding.

And to the end that nothing may be passed or done by Our said Council or Assembly to the prejudice of Us Our Heirs and Successors, We Will and Ordain that You the said Patrick Tonyn shall have and enjoy a negative Voice in the making and passing of all Laws Statutes and Ordinances as aforesaid, And that You shall and may likewise from time to time as You shall judge necessary Ad-journ Prorogue or dissolve all General Assemblies, as aforesaid.

And We do by these Presents give and grant unto You, the said Patrick Tonyn, full power and Authority, with the Advice and Consent of Our said Council to erect, constitute and establish such and so many Courts of Judicature and Public Justice within Our said Province under Your Government, as You and they shall think fit and necessary for the hearing and determining of all Causes, as well Criminal as Civil, according to Law and Equity, and for Awarding Execution thereupon, with all reasonable and Necessary powers, Authorities, Fees, and Privileges belonging thereunto, as also to appoint and Commissionate fit Persons in the several parts of Your Government to Administer the Oaths mentioned in the aforesaid Acts, as also to tender and Administer the aforesaid Declaration to such Persons belonging to the said Courts, as shall be Obliged to take the same.

And We do hereby grant unto You full power and Authority to constitute and appoint Judges, and, in cases requisite, Commissioners of Oyer and Terminer, Justices of the Peace, Sheriffs and other necessary Officers and Ministers within Our said Province for the better Administration of Justice, and putting the Laws in Execution, and to Administer or Cause to be Administered unto them such Oath or Oaths as are usually given for the due Execution and Performance of Offices and Places, and for the clearing of Truth in judicial Causes.

And We do hereby give and grant unto You full Power and Authority, where you shall see cause, or shall judge any Offender or Offenders in Criminal Matters, or for any Fines or Forfeitures due unto Us, fit Objects of Our Mercy, to pardon all such Offenders and remit all such Offences, Fines and Forfeitures, Treason and wilful Murder only excepted; in which Cases You shall likewise have Power upon extraordinary Occasions to grant Reprieves to the

Offenders, until and to the Intent Our Royal Pleasure may be known therein.

And Whereas it belongeth to Us in Right of Our Royal Prerogative, to have the Custody of Ideots and their Estates, and to take the profits thereof to Our own use, finding them Necessaries; and also to provide for the custody of Lunaticks and their Estates, without taking the Profits thereof to Our Own Use; and whereas while such Ideots and Lunaticks and their Estates remain under Our immediate care, great trouble and Charges may arise to such as shall have Occasion to resort unto Us for directions respecting such Ideots and Lunaticks, and their Estates; and considering that Writs of Enquiry of Ideots and Lunaticks are to Issue out of Our several Courts of Chancery, as well in our Provinces in America, as within this Our kingdom respectively; and the Inquisitions thereupon taken are returnable in those Courts We have thought fit to intrust You with the Care and Commitment of the Custody of the said Ideots and Lunaticks and their Estates. And We do by these Presents give and grant unto you full power and Authority without expecting any further Warrant from Us from time to time, to give Order and Warrant for the preparing of Grants of the Custodys of such Ideots and Lunaticks and their Estates as are or shall be found by Inquisitions thereof taken or to be taken, and returnable unto Our Court of Chancery; and thereupon to make and pass Grants and Commitments under Our Great Seal of Our Province of East Florida of the Custody's of all and every such Ideots and Lunaticks and their Estates, to such person or persons, suitors in that behalf, as according to the rules of Law, and the Use and practice in those and the like Cases, You shall judge meet for that trust, the said Grants and Commitments to be made in such manner and form or as nearly as may be, as hath been heretofore used and accustomed in making the same under the Great Seal of Great Britain and to contain such apt and Convenient Covenants, Provisions and agreements, on the part of the Committees and Grantees to be performed, and such security to be by them given, as shall be requisite and needful.

And We do by these presents give and grant unto You full power and Authority to Collate any Person or Persons to any Churches Chapels and other ecclesiastical Benefices within Our said Province as often as any of them shall happen to be void.

And we do hereby give and grant unto You the said Patrick

Tonyн by yourself or by Your Captains said Commanders by You to be authorized, full Power and Authority to Levy, Arm, Muster Command and employ all Persons whatsoever residing within Our said Province, and as Occasion shall serve them to March Embark or transport from one place to another, for the resisting and with-standing of all Enemies, Pirates and Rebels, both at Land and Sea, and to transport such Forces to any of Our Plantations in America, if necessity shall require, for defence of the same against Invasion or Attempts of any of Our Enemies, and such Enemies, Pirates and Rebels (if there shall be Occasion) to pursue and prosecute in or out of the Limits of Our said Province and if it shall so please God them to Vanquish apprehend and take, and being taken according to Law to put to Death or keep and preserve Alive at Your Discretion and to execute Martial Law in time of Invasion, War or other times when by Law, it may be executed and to do and execute all and every other thing and things which to Our Captain General and Governor in Chief doth or of right ought to belong.

And We do hereby give and grant unto You full Power and Authority, by and with the Advice and Consent of Our said Council to Erect, Raise and Build in Our said Province such and so many Forts, Platforms, Castles, Cities, Boroughs, Towns and Fortifications, as you by the Advice aforesaid shall judge necessary, and the same or any of them to fortify, and furnish with Ordnance Ammunition and all Sorts of Arms fit and necessary for the Security and Defence of Our said Province; and by the Advice aforesaid the same again or any of them to demolish or dismantle as may be most convenient.

And for as much as divers Mutinies and Disorders may happen by Persons shipped and employed at Sea, during the time of War, And to the end that such as shall be Shipped and employed at Sea during the time of War may be better governed and ordered, We do hereby give and grant unto You the said Patrick Tonyн full Power and Authority to Constitute and Appoint Captains Lieutenants Masters of Ships and other Commanders and Officers, and to grant to such Captains Lieutenants Masters of Ships, and other Commanders and Officers Commissions to execute the Law Martial during the time of War, according to the Directions of an Act passed in the 22<sup>d</sup> Year of the Reign of Our late Royal Grandfather intituled "An Act for Amending explaining and reducing into One Act of Parliament the Laws relating to the Government of His Majesty's Ships

Vessels and Forces by Sea" and to use such proceedings, Authorities, Punishments, Corrections and Executions, upon any Offender or Offenders who shall be Mutinous Seditious Disorderly or any way unruly, either at Sea or during the time of their Abode or Residence in any of the Ports Harbours or Bay's in Our said Province, as the case shall be found to require according to Martial Law and the said Directions, during the time of War as aforesaid,

Provided that nothing herein contained shall be construed to the enabling You or any by Your Authority to hold Plea or have any Jurisdiction of any Offence Cause matter or thing Committed or done upon the high Sea or within any of the Havens, Rivers or Creeks of Our said Province under your Government, by any Captain, Commander, Lieutenant, Master, Officer Seaman, Soldier or Person whatsoever who shall be in actual Service or Pay in or on Board any of Our Ships of War or other Vessels acting by immediate Commission or Warrant from Our Commissioners for executing the Office of Our High Admiral of Great Britain or from Our High Admiral of Great Britain for the time being, under the Seal of Our Admiralty; but that such Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier, or other Person so Offending, shall be left to be proceeded against and tried, as their Offences shall require, either by Commission under Our Great Seal of the Kingdom as the Statute of the 28<sup>th</sup> of Henry the Eighth directs, or by Commission from Our said Commissioners for executing the Office of High Admiral of Great Britain or from our High Admiral of Great Britain for the time being according to the aforementioned Act, intituled An Act for Amending, explaining and reducing into one Act of Parliament the Laws relating to the Government of His Majesty's Ships Vessels and Forces by Sea, and not otherwise Provided nevertheless that all Disorders and Misdemeanors Committed on Shore by any Captain Commander, Lieutenant, Master, Officer, Seaman, Soldier, or other Person whatsoever belonging to any of Our Ships of War or other Vessels acting by immediate Commission or Warrant from Our Commissioners for Executing the Office of High Admiral of Great Britain or from Our High Admiral of Great Britain for the time being, under the Seal of Our Admiralty, may be tried and Punished according to the Laws of the Place, where any such Disorders, Offences and Misdemeanors shall be committed on Shore notwithstanding such Offender be in Our Actual Service and Borne in Our Pay on Board any such Our Ships of War or other Vessels

Acting by immediate Commission or Warrant from Our Commissioners for executing the Office of High Admiral of Great Britain or from Our High Admiral of Great Britain for the time being, as aforesaid so as he shall not receive any Protection for the avoiding of Justice for such Offences committed on Shore from any pretence of his being employed in Our Service at Sea.

And Our further Will and Pleasure is that all Publick [money] raised or which shall be raised by any Act hereafter to be made within Our said Province be issued out by Warrant from You by and with the Advice and Consent of Our Council as aforesaid, for the support of the Government and not otherwise.

And We likewise give and grant unto You full Power and Authority by and with the Advice and Consent of Our said Council to settle and agree with the Inhabitants of Our said Province for such Lands Tenements and Hereditaments as now are or hereafter shall be in Our Power to dispose of and them to grant to any Person or Persons upon such Terms and under such Moderate Quit Rents Services and Acknowledgments, to be thereupon reserved unto Us as you with the Advice aforesaid shall think fit; which said Grants are to pass and be sealed by Our Publick Seal of Our said Province, and being entered upon Record by such Officer or Officers as shall be appointed thereunto shall be good and effectual in Law, against Us Our Heirs and Successors.

And We do hereby give you the said Patrick Tonyn full Power and Authority to order and appoint Fairs, Marts and Markets as also such and so many Ports, Harbours, Bays, Havens, and other Places for the Convenience and Security of Shipping, and for the better loading and unloading of Goods and Merchandizes, in such and so many Places as by and with the Advice and Consent of Our said Council shall be thought fit and necessary.

And We do hereby require and Command all Officers and Ministers, Civil and Military and all other Inhabitants of Our said Province to be obedient aiding and assisting unto You the said Patrick Tonyn in the Execution of this Our Commission and of the Powers and Authorities therein contained; and in case of Your Death or Absence from Our said Province to be Obedient aiding and assisting as aforesaid to the Commander in Chief, for the time being to whom We do therefore by these Presents give and grant all and Singular the Powers and Authorities herein granted to be by

him executed and enjoyed, during Our Pleasure or until Your Arrival within Our said Province.

And if upon Your Death or Absence from Our said Province there be no Person upon the Place commissionated or appointed by Us to be Our Lieutenant Governor or Commander in Chief of the said Province, Our Will and Pleasure is that the eldest Councillor who shall be at the time of Your Death or Absence residing within Our said Province shall take upon him the Administration of the Government of Our said Province and execute Our said Commission and Instructions and the several Powers and Authorities therein contained in the same manner and to all Intents and Purposes as other Our Governor or Commander in Chief should or ought to do in case of Your Absence, or until Your return, or in all cases until Our further Pleasure be known therein

And We do hereby Declare Ordain and Appoint that You the said Patrick Tonyn shall and may hold, execute and enjoy the Office and Place of Our Captain General and Governor in Chief in and over Our said Province of East Florida with all its Rights Members and Appurtenances whatsoever as aforesaid together with all and Singular the Powers and Authorities hereby granted unto You for and during Our Will and Pleasure. In Witness whereof We have caused these Our Letters to be made Patent Witness Ourselv<sup>t</sup> at Westminster the twenty second day of July in the thirteenth Year of Our Reign.<sup>2</sup>

By Writ of Privy Seal.  
YORKE.

<sup>2</sup> The date and the words which follow were inserted subsequently.

## APPENDIX C

### GOVERNORS' OBSERVATIONS ON THEIR INSTRUCTIONS

SOON after its reorganization in 1752, the Board of Trade took into consideration the thorough revision of the governors' instructions. They felt, properly enough, that the governors themselves ought to be able to give worthwhile suggestions as to which of the instructions should be eliminated or thoroughly revised. A circular letter was consequently sent to the governors of all royal colonies on June 3, 1752. After urging upon the governors a more strict observance of their instructions in general and of those relating to the method of passing laws in particular, the letter concluded with this paragraph:

"And whereas some particular parts of the Instructions given by His Majesty to his Governors, may from the alteration of circumstances, have become obsolete useless or improper; we desire that you will without delay consider and revise with the strictest attention the Instructions given you, as well the General ones, as those which relate to the Acts of Trade and Navigation, and transmit to us your opinion of such parts of them as shall appear to you useless, improper, or liable to objection, together with your reasons for such opinion, that we may take those reasons into consideration, and propose to His Majesty such alterations as shall, upon mature deliberation, appear to be proper & expedient."<sup>1</sup>

The response to this request was disappointing. Although the letter was sent to thirteen governors or lieutenant governors,<sup>2</sup> only five seem to have paid any attention to it. Charles Knowles of Jamaica sent a brief reply and promised further comments which

<sup>1</sup> *New York Col. Docs.*, VI, 760-761.

<sup>2</sup> These men were: John Tinker, Bahamas; Henry Grenville, Barbados; William Popple, Bermuda; Charles Knowles, Jamaica; William Matthew, Leeward Islands; Spencer Phips (lieutenant governor), Massachusetts; Benning Wentworth, New Hampshire; Jonathan Belcher, New Jersey; George Clinton, New York; Gabriel Johnston, North Carolina; Peregrine Thomas Hopson, Nova Scotia; James Glen, South Carolina; and Robert Dinwiddie (lieutenant governor), Virginia. Matthew and Johnston died just about the time the letters reached their respective colonies.

he never wrote,<sup>3</sup> and George Clinton of New York acknowledged receipt of the Board's letter and promised obedience but got no further in his comments than a lengthy diatribe against the assembly.<sup>4</sup> Three men only were conscientious enough to prepare substantial papers giving in detail their opinions upon the desirability of particular instructions. Each of these three had had sufficient actual experience as governor to make his views worthy of serious attention. Henry Grenville of Barbados and William Popple of Bermuda had each been active governor for five years; James Glen had been chief executive of South Carolina for nearly nine. Their observations have value, therefore, as the mature reflections of experienced men upon the instructions which they were expected to obey.

### GOVERNOR GRENVILLE'S OBSERVATIONS

#### On the following Articles of His Majesty's General Instructions.<sup>1</sup>

[C. O. 28:30]

#### INSTRUCTION THE 13TH<sup>2</sup>

[Note] [sic] Not to levy money or its value which shall [not] be liable to be accounted for by the King. Books of accounts to be kept. Accounts to be audited &c.

#### OBSERVATION

I cannot find that this Instruction has ever yet been complied with, or that any clause has ever yet been inserted in any Law, for levying money, or the value of money, whereby the same has been made liable to be accounted for in Great Britain, to his Majesty, or the Commissioners of his Treasury, or his High Treasurer for the time being, or for auditing & attesting the same by the Auditor General of the Plantations, or this Deputy. But nevertheless fair Books of Accounts of all money, or value of money, have been constantly kept, examined, & settled, according to the Directions of an

<sup>3</sup> Knowles to the Board of Trade, Nov. 18, 1752, C. O. 137: 25. Knowles had only just received his instructions and had not yet assumed office when the Board of Trade's letter was written, so that a detailed reply from him would have had relatively little value.

<sup>4</sup> Clinton to the Board of Trade, October 4, 1752, *New York Col. Docs.*, VI, 764-766.

<sup>1</sup> This paper was based on the general instructions to Henry Grenville, governor of Barbados, dated November 10, 1746, C. O. 5: 200, pp. 239-301.

<sup>2</sup> See § 269 A, and § 273 A.

Act of the Island N<sup>o</sup>. 545, in the printed Book of the Laws of this Island, passed the 26th April 1708 and from all the Observations I have been able to make of the general disposition of Assembly in this Island, I am persuaded they never will be prevailed upon to alter the present method of accounting for the publick Leyvs; which method has never been found productive of any ill consequences, nor any misapplications of the Revenue ever discovered, or complained of.

Wherefore, upon the whole I am humbly of opinion that this Instruction may very safely, & consistently with the interest of the Crown, be discontinued for the future.<sup>3</sup>

#### INSTRUCTION 32D<sup>4</sup>

Not to dispose of Forfeitures or Escheats until the Provost Marshall or other Officer hath made enquiry by Jury. Account thereof to be transmitted to Commissioners of the Treasury & Crown for Trade and Plantation.

#### OBSERVATION

All Forfeitures & Escheats to His Majesty, in this Island, are enquired into, & found (but not the value of them) by His Majesty's Escheator General, & a Jury upon their Oaths: the Receiver General, of His Majesty's Casual Revenues does then take them into his possession, by virtue of his Majesty's Warrant & Instructions to him, & disposes of them for the utmost value, at publick vendue, & receives the money arising from the sale, & Accounts annually for the same, in the manner directed by his Majesty's said Instructions to him.

As this Instruction seems to have been framed in early times, before the Crown had appointed any Officer to take immediate care of its forfeitures & Excheats I am humbly of opinion that it is now become obsolete, useless and improper.<sup>5</sup>

#### INSTRUCTION 35TH<sup>6</sup>

To transmit an Account of all establishments of Jurisdiction, Courts, Offices and Officers &c. and account of all public charges.

<sup>3</sup> No change was made in the instruction in consequence of this recommendation.

<sup>4</sup> See § 460 A, C, E, H.

<sup>5</sup> This article was omitted from instructions to subsequent Barbados governors in consequence of this recommendation.

<sup>6</sup> See § 423 E.

## OBSERVATION

There have been no late establishments of any Jurisdictions, Courts, Offices, or Officers within this Island: the Powers, Authorities, Fees & Privileges granted to those already established, are very well known, & appear in the printed book of Laws, & I can make no doubt but a particular account of all such establishments was transmitted home at the time they took place.

With respect to the copies of all proceedings in such causes where appeals are lodged, before his Majesty in Council, they are always taken out both by the Complainants & Defendants certified by the Clerks of the respective courts, in which such appeals are lodged, & authenticated by the Governor under the Great Seal of the Island, to the end that they may be produced before his Majesty in Council at the hearing of all such Appeals.

But I cannot learn that the copies of such proceedings, on any account of publick charges, relating to the said causes, have ever been transmitted home by any of His Majesty's Governors, nor can I easily conceive what is intended by the words *Publick Charges*, but as no mischief has ever been known to ensue from the past neglect of this Instruction, I must humbly submit it, whether the continuance of it can be at all necessary for the future.<sup>7</sup>

INSTRUCTION 41ST<sup>8</sup>

To endeavour to get a Law passed for restricting of inhuman severities & the wilful killing &c. of Indians and Negros may be punished.

## OBSERVATION

There seems to be sufficient provision made by the Laws now in force, for restraining any inhuman severities, which may be used by all masters, or overseers towards their Christian servants, or their slaves of the first of these, the number is now very small; but no provision has been made in any Law that the wilful killing of Indians, or Negros, shall be punished with death; there have been very few instances of such wilfull killing: and that legislature here have probably been deterred from time to time from making such a provision from the apprehension of the dangerous effects it might have on the spirits of the negroes, by lessening that Awe in which

<sup>7</sup> This article was modified and clarified in the next set of general instructions, those of 1756. See § 423 K.

<sup>8</sup> See § 733.

they ought to stand of their Masters, & perhaps inciting them to Insurrections, and as the security of the Island does in a great degree depend upon keeping the slaves, now grown very numerous, in a due state of subjection, I cannot help being of opinion that it is adviseable to discontinue this Instruction.<sup>9</sup>

#### INSTRUCTION 67<sup>10</sup>

To send the present number of planters and inhabitants & slaves in the Island, & an account of the increase or decrease of them, and how many are fit to bear arms in the Militia.

#### OBSERVATION

Such an account as is required by this Instruction, is very difficult to be obtained in this Island, I did however use my best endeavours, soon after my arrival, to obtain a true & exact list of the number of inhabitants and slaves, as Whites, distinguishing the number of men, women and children, and such as were able to bear arms. This Account I transmitted to your Lordships, though I have reason to suspect it is not so perfect as I could have wished, occasioned in a great measure by the difficulties which, the proper officers employed by me, upon this occasion met with from many of the Inhabitants of weak minds, who superstitiously dread the numbering of their families.

I am of opinion upon the whole, that if care be taken to comply with this instruction, in the best manner possible, once in five or seven years, it will sufficiently answer all the ends proposed from it.<sup>11</sup>

#### INSTRUCTION 76<sup>12</sup>

To cause a survey to be made of all considerable landing, places and harbours and with advice of the Council to erect fortifications at the public charge. That the duty of 4½ per cent in the Charribbee Islands towards repairing and erecting fortifications &c. will not be sufficient, he is required to move the General Assembly of Barbadoes to continue public levies & to pass such Acts as may be requisite.

<sup>9</sup> This article was omitted in subsequent general instructions for Barbadoes and some other colonies in consequence of this recommendation.

<sup>10</sup> See § 1028.

<sup>11</sup> This article was repeated unchanged in subsequent general instructions.

<sup>12</sup> See § 633 C, and § 579.

### OBSERVATION

Frequent surveys have from time to time been made of the most considerable Landing places and Harbours of this Island; and Fortifications have been raised in them for its security and defence; which has been done at the publick Charge of the Island.

The Duty of 4½ per cent which appears by this Instruction to have been particularly directed to be applyed towards the repairing and erecting the Fortifications and other publick uses necessary for the safety and welfare of the Island, has not for a number of years past been applied to almost any of those uses, for which it seems to have been originally granted.

But nevertheless the General Assemblies have not been wanting to continue the publick Levys, which they have formerly been accustomed to raise, for the Fortifications and other publick services of the Island, notwithstanding the Sums raised by those levies have been at times much greater than the people could well bear.

There is no doubt but if an annual application of a considerable sum out of this duty could be obtained from the Crown the people would with much greater Cheerfulness contribute to the putting their fortifications into a better and more defensible condition, than they have ever yet been but if no such assistance is to be hoped for, I would humbly recommend it to your Lordships to discontinue this Instruction for the future, in Order to bury in oblivion as much as possible, the original uses of this Duty, the remembrance whereof is exceedingly disagreeable to the people.<sup>18</sup>

### INSTRUCTION 80<sup>14</sup>

To give Encouragement and invitation to merchants and other traders, in particular to the Royal African Co. and other subjects trading in Africa. We are willing to recommend to the said Company and others that the Islands may have a constant supply of merchantable negroes, to take special care that payment be made for same.

### OBSERVATION

I look upon this to be a very old Instruction, framed in early times, with a view of bringing trade to the Island, and for the en-

<sup>18</sup> Both parts of this article were dropped from the Barbados instructions in 1756. On the early misuse of the four-and-a-half per cent duty see Vincent T. Harlow, *A History of Barbados*, 1625-1685, pp. 131, 145-147, 161-164, 193-207.

<sup>14</sup> See § 912 E, and § 929.

couragement of the African Co. in particular, upon its first establishment, and for procuring a constant and sufficient supply of merchantable Negroes at moderate rates, at a time when the Trade to the coast of Guinea, was not capable of furnishing the planters with such a number of negroes as was necessary for the improvements of their lands.

With respect to the special care that is here ordered to be taken by Governors for inforcing of payments within a competent time, according to the agreements of the parties, I am at a loss to know what power a Governor can exercise upon such occasions: The seller in default of payment, is at liberty to proceed according to the known course and direction of the Law. This is the method always pursued, and the only one that can legally be pursued, and has always been found sufficient for the recovery of all just debts.

For these reasons, and for as much as the African Trade is now upon a very different footing from what it formerly was, and as the Island is kept constantly supplied with Negroes, I humbly submit it to your Lordships, whether this Instruction be not useless and improper.<sup>15</sup>

#### INSTRUCTION 81 <sup>16</sup>

The said Company frequently having great sums of money owing to them in the Plantations have been hindered in recovery thereof by adjournments of Courts. You are to see that Courts are more frequently held.

#### OBSERVATION

As sufficient provision seems to have been made in the 37th Article of his Majestys Instructions,<sup>17</sup> for the due and frequent holding of Courts of Justice and from removing all Obstructions or delays in the administration of Justice and as the African company have not introduced a single negroe into this Island for many years past nor have any debts, to my knowledge now outstanding, or owing to them the reasons of this Instruction seem to me to be entirely ceased.<sup>18</sup>

<sup>15</sup> Both parts of this article were dropped from subsequent instructions for all colonies except that the second part was retained for Jamaica until the Revolution.

<sup>16</sup> See § 930.

<sup>17</sup> See § 412 A.

<sup>18</sup> The article was dropped from subsequent instructions for all colonies except Jamaica.

INSTRUCTION 82<sup>19</sup>

Acts have been passed in the Plantations for laying duties on the importation & exportation of Negroes, and on felons imported in opposition to Act of Parliament of 4th of late King for preventing robbery &c. You are [not] to give assent to any Law imposing such duties.

## OBSERVATIONS

No Act has ever passed in this Island for laying any duty on the exportation of any negroes or slaves, nor on the importation of Felons: But by an Act of this Island, dated the 28th November 1705 № 516 in the printed Law Book, a duty of 5<sup>s</sup>, Barbadoes Currency, per head, is imposed on the importation of new Negroes, payable by the importer, which Act has ever since continued in force, and the moneys arising therefrom been constantly made part of the Annual Publick Revenue.

As this duty has never yet been complained of, but on the contrary, very cheerfully acquired in, I humbly submit it to your Lordships, whether this Instruction may not receive such a variation, as to give a sanction for the future, for the continuance of this easy duty.<sup>20</sup>

INSTRUCTION 83<sup>21</sup>

To give account every half year of the number of negroes the Island is supplied with by the African Company and separate traders.

## OBSERVATION

This Instruction so far as relates to the number of Negroes the Island is supplied with, has been constantly observed by myself.

The African Company (as has already been observed) have not for many years past introduced any Negroes here, the whole supply is now furnished by separate traders: but an information of the rates at which they are sold, is not easy to be obtained from merchants, nor has the Governor a power to compel them to give such information, I therefore humbly submit it to your Lordships, whether it is a point of such consequence as to continue as part of this Instruction any longer.<sup>22</sup>

<sup>19</sup> See § 939.

<sup>20</sup> So much of this article as related to duties on Negroes imported was dropped in the Barbados instructions of 1756 but the part relating to the duties on felons continued unchanged. See § 939 A.

<sup>21</sup> See § 931.

<sup>22</sup> The parts of this article objected to were dropped from the Barbados in-

INSTRUCTION 84 <sup>23</sup>

To transmit a map of the Island, with Plantations and Fortifications.

## OBSERVATION

There is a very good map extant, containing an exact description of the whole Island with the several Plantations upon it, and the fortifications surrounding it, of so late a date as the year 1721. Since which time no material alterations have happened: as this appears to be an old Instruction, and seems to have had its effect, I humbly submit it to your Lordships, whether the continuance of it can be of any longer use.<sup>24</sup>

INSTRUCTION 88 <sup>25</sup>

Appointment of Receiver General [of the Rights and Perquisites of the Admiralty], you are to aid him, his deputies &c. to make up your Accounts with him (effects of Pirates included) and as to collection of Revenues &c.

## OBSERVATION

The Rights of Perquisites of Admiralty are not fully known or understood in this Island. The difficulties & doubts they have been attended with have never, as I can learn, been determined and settled: these Rights are of an extensive nature, and not to be described otherwise than as they are specified in the Commission of Vice Admiralty usually granted to Governors: But this Instruction plainly alludes to the Rights and Perquisites of Admiralty as they were enumerated in a warrant which his Majesty had been pleased to grant to some person who is therein called the Receiver General of those Rights. I find that such a warrant was once granted to Mr Byng (afterwards Governor here)<sup>26</sup> who in the year 1726 constituted his Attorney here, and sent him a copy of his Warrant, attested by a Notary Publick; in which warrant there was a Power to receive and collect all the Rights and Perquisites of Admiralty: But I have not been able to learn that this Officer exercised his Power.

structions of 1756. See § 931 E. Similar changes, in whole or in part, were also made in the instructions for other colonies.

<sup>23</sup> See § 629.

<sup>24</sup> This article was dropped from the Barbados instructions of 1756.

<sup>25</sup> See § 657.

<sup>26</sup> Robert Byng, appointed receiver general of the rights and perquisites of the Admiralty in 1727, not 1726, was governor of Barbados from the autumn of 1739 until his death in October, 1740.

For as much therefore as a warrant is irreconcilable with the Powers granted to Governors in their Commission of Vice Admiral, as well as incompatible in some respects with the warrant of Receiver General of his Majesty's Casual Revenues, I humbly submit it to your Lordships whether this Instruction (if it ought to stand at all) should not be varied and explained in such a manner, that the Governor and every Officer of the Crown, whom it may concern, may for the future know their proper duties concerning the collection of these Rights, and perquisites of Admiralty.<sup>27</sup>

I am with great respect

My Lords

Your Lordships

Most obedient and most  
faithful humble servant

H. GRENVILLE.

December 14 N. S. 1752.

[Endorsed] Barbadoes.

Gov<sup>r</sup> Grenville's Observations

on His Majesty's General Instructions to him

Rec<sup>d</sup> with this letter dated  
the [14th] of [December,] 175[2].<sup>28</sup>

Rec<sup>d</sup> Feb<sup>y</sup> 26  
Read [March 9] } 1753.

### GOVERNOUR GRENVILLE'S OBSERVATION'S On His Majesty's Orders and Instructions relating to the Acts of Trade & Navigation.<sup>1</sup>

[C. O. 28:30]

INSTRUCTION 1ST<sup>2</sup>

You shall inform Yourself of the Principal Laws relating to the Plantation Trade Viz<sup>t</sup> . . .<sup>3</sup> All which Laws you will herewith re-

<sup>27</sup> No change was made in the article in consequence of this recommendation.

<sup>28</sup> Dates in brackets are supplied from *Board of Trade Journal*, 1749/50-1753, p. 402.

<sup>1</sup> This paper was based on the trade instructions to Henry Grenville, governor of Barbados, dated Nov. 10, 1746, C. O. 5: 200, 305-335. None of the changes suggested in this paper were adopted, sensible though they were. Next to the commissions, the trade instructions were the most stereotyped documents given to the governors.

<sup>2</sup> See § 1035.

<sup>3</sup> Grenville lists here the acts mentioned in the first article of his trade in-

ceive and you shall take a Solemn Oath to do your utmost that all the Clauses Matters & things contained in the before recited Acts, and in all other Acts of Parliament now in Force or that hereafter shall be made relating to Our Colonies or Plantations be Punctually & bona fide Observed according to the true intent and meaning thereof.

#### OBSERVATION

As this Instruction directs the Governour to inform himself of the principal Laws relating to the Plantation Trade, & requires him to take a Solemn Oath (which Oath is always taken by the Governour on his Entering upon the Government) to do his Utmost that all the Clauses, Matters & Things contain'd in those Acts, & in all other Acts of Parliament now in force, or that shall hereafter be made relating to the Colonies & Plantations, be punctually observed, according to the true Intent & Meaning thereof; And as the Several Subsequent Instructions N<sup>o</sup>. 2, 3, 4, 5, 6, 8, 9, 19 & 20<sup>4</sup> do contain nothing more than a Recital of Several Clauses of particular Acts of Parliament, together with Injunctions that the true Intent & meaning of such Clauses be duly & punctually observed and complyed with, I humbly Submit it to Your Lordships, whether it be necessary to continue the above Enumerated Instructions; since the due Observance of them is entirely comprehended, & fully Injoynd by the first Article of these Instructions & Secured by the Solemn Oath therein prescribed to be taken.

#### INSTRUCTION 7TH<sup>5</sup>

You shall every three Months or oftener transmit to the Commissioners of Our Treasury or High Treasurer, to Our Commissioners for Trade and Plantations and Commissions [sic] of Our Customs in London a List of all Ships and Vessels trading in the Island of Barbadoes according to instructions annexed. You shall demand of every Master at his clearing an Invoice of the contents and quality of his Lading &c. according to form annexed, he to enclose a copy by the same or some other Ship under cover sealed and directed to one of the above Commissioners and another Copy of the said Instructions.

They number twenty-eight and include most of the more important statutes listed in § 1035 above, down to and including 19 Geo. II, c. 23.

<sup>4</sup> These articles are respectively §§ 1036 A, 1040 A, 1043 and 1046 A, 1047 A, 1049 A, 1051 A, 1052, 1063 A, and 1065.

<sup>5</sup> See § 1050 A.

voice to the Collector of that Port in this Kingdom to which such Ship is said to be bound.

#### OBSERVATION

As this Instruction was probably framed before the Appointment of Collectors in this Island and as the Accounts required by this Instruction to be transmitted by the Governour, are now constantly and regularly transmitted, by the collectors, to the Commissioners of the Customs in London. It is humbly Submitted to Your Lordships whether the continuance of it be proper, or necessary

#### INSTRUCTION 17TH<sup>6</sup>

You shall Correspond with the Commissioners of Our Customs in London and advise them of all Failures and Misdemeanours of any officer of Our Customs in Barbadoes, and also as occasion shall offer of all necessary information relating to Laws of Trade & Navigation or to Our Revenue of Customs and other duties under their management both in Great Britain and the Plantations.

#### OBSERVATION

As a Surveyor General of the Customs is appointed by the Lords Commissioners of the Treasury, & residing here upon the Spot, whose known Duty & Province it is to superintend all officers of the Customs, & to correspond with the Commissioners in London, & to advise them of all failures neglects, Frauds, or misdemeanours of any of those officers, as well as to advise them of All Occurrences necessary for their Information, I must humbly Submit it to Your Lordships whether such an Instruction should be any longer continued to a Governour.

I am with great Respect  
 My Lords      Your Lordships  
 Most Obedient humble Serv<sup>t</sup>

H. GRENVILLE

December 14<sup>th</sup>

1752.

[Endorsed]      Barbadoes  
 Gov<sup>r</sup> Grenville's Observations on  
 His Majesty's Orders and Instruc-  
 tions relating to the Acts of Trade  
 & Navigation.

<sup>6</sup> See § 1062.

Rec'd with his Letter dated  
 the [14<sup>th</sup>] of [Dec.] 175[2]<sup>7</sup>  
 Rec'd Feby the 26<sup>th</sup>} 1753  
 Read [March 9] }

OBSERVATIONS ON THE INSTRUCTIONS GIVEN TO HIS  
 MAJESTY'S GOVERNOR OF BERMUDA, AS WELL  
 THOSE WHICH RELATE TO THE GOVERNMENT  
 OF THE SAID ISLANDS, AS THOSE, WHICH  
 RESPECT THE TRADE & NAVIGATION  
 THEREOF, TOGETHER WITH SOME  
 PROPOSED AMENDMENTS  
 THEREUNTO.<sup>1</sup>

[C. O. 37:18]

The whole wrote in obedience to the Commands of the Right  
 Hon<sup>b1e</sup> the Lord's Commissioners for Trade and Plantations, and  
 humbly submitted to the consideration of their Lordships, by  
 their Lordships  
 Most dutiful and  
 most obedient humble servant  
 W<sup>m</sup> POPPLE.

Read Nov<sup>r</sup>. 6 1754.<sup>2</sup>

<sup>7</sup> Dates in brackets are supplied from *Board of Trade Journal*, 1749/50-1753,  
 p. 402.

<sup>1</sup>This paper, written by William Popple, governor of Bermuda, was based  
 on his general and trade instructions, both dated May 1, 1745, C. O. 5: 200, pp.  
 79-126, 129-161.

<sup>2</sup> See *Board of Trade Journal*, 1754-58, pp. 76, 77, 110, 111. The paper was  
 considered on Nov. 6, 7, and 8, 1754, and Feb. 5, 6, and 7, 1755, when a revised  
 set of general instructions for Popple was completed.

OBSERVATIONS ON THE INSTRUCTIONS NOW GIVEN TO THE  
GOVERNOR OF HIS MAJESTY'S BERMUDA OR SUMMER  
ISLANDS IN AMERICA, TOGETHER WITH SOME  
ALTERATIONS AND AMENDMENTS HUMBLY  
PROPOSED AND SUBMITTED, & THE  
REASONS FOR SUCH ALTERATIONS  
& AMENDMENTS.

On the 3<sup>d</sup> 3

The intent of this Instruction is set aside by a circumstance, which was not foreseen, nor provided against.

On a Devolution of Government by Death or absence the Governor's Instructions necessarily come into the possession of the President, he never fails keeping a copy for himself, & frequently gives one to every Member of the Council, who becomes thereby perfectly acquainted with every Instruction a Governor has; but it does not stop there, for many Members of the Assembly, by that means, & many private men also, get copys thereof, that it happens *this* way, may at least be presumed, because the fact is certain, & there seems to be no other way, for Members of the Council & Assembly & Private men, to have such Copys.

For remedying the inconveniencies of this Instruction, it is humbly submitted,

That if, the President shall communicate to any Members of the Council or Assembly, (or to any private person) more Instructions than those, w<sup>ch</sup> he is directed (by his Instructions) to lay before them, or make Publick, or shall give copies of his Instructions to any Member of the Council or Assembly, or to any private person, or shall keep a copy thereof, after the expiration of his Administration, he shall forfeit his seat at the Council Board.

That on the return of the Governor who shall have been absent, or on the arrival of a new Governor, the President deliver upon oath all the Instructions which he received when he took the Government upon himself, as also all such Instructions and other publick papers which he may have received during the absence of the said Governor, or during his Administration when the Government devolved upon him.<sup>4</sup>

<sup>3</sup> See § 81 requiring the governor to communicate certain of his instructions to the council.

<sup>4</sup> This recommendation was adopted, but for Bermuda alone, and a new article was included in the next general instructions for that colony, those of 1755 sent to the same governor, William Popple. See § 82.

On the 6<sup>th</sup><sup>5</sup>

The limiting the Governor to the appointment of no more Members of the Council than shall be necessary to keep the number up to seven, seems to *imply*, but doth not *declare* a necessity for such a Restriction, & may be attended with inconveniences, for if (as reference being had to the Minutes of Council will appear) it has been and is frequently found difficult to make a Quorum in Bermuda, when the number has been almost full how much more difficult will it be when there are no more than seven?

IT IS THEREFORE HUMBLY SUBMITTED,

Whether this restriction may not be dispensed with upon Emergencies, & proper words added to this Instruction accordingly? <sup>6</sup>

On the 11<sup>th</sup><sup>7</sup>

The Direction in this instruction "to conform as near as may be to Parliamentary usage in England["] tho' seemingly linked to the choice of representatives by free-holders, is nevertheless general, & in some measure clashes with the following words in the Governor's Commission, by which he is to summon and call general Assemblies, "*according to the usage of our other plantations in America*", which not only differ from the custom in England, but from that of each other.

To Instance in one case,

There is no Act in Bermuda which limits the duration of Assemblies, as there is in England for that of Parliaments & in some of our Colonies (Barbadoes in particular) for Assemblies, Assemblies in Bermuda once chosen are to continue without limitation of time until a Dissolution.

It is not practicable therefore *in this respect* to conform quite, either to the custom of England, or that of the other Plantations. In other respects such as the manner of holding & proceeding during the sitting of Assemblies, the present Governor has endeavoured to make them conform to Parliamentary usage, & has met with great opposition therein.

<sup>5</sup> See § 92 referring to the governor's power to fill the council temporarily to the number of seven and requiring him to report the names of members so added.

<sup>6</sup> No change was made in the instruction in consequence of this observation.

<sup>7</sup> See § 154 requiring the election of assemblymen by freeholders only.

IT IS THEREFORE HUMBLY SUBMITTED,

That the Governor be particularly directed to dissolve Assemblies as often as they shall assume & refuse to give up Rights & Priviledges beyond those claimed by a British Parliament, or shall not conform to Parliamentary customs as far as may be consistent with the circumstances of the Colony. This is the more necessary, as Governors, who are restricted to the first Assembly for a Salary, are willing to try any method, rather than that of a Dissolution, & as Assemblies, who know this, generally urge their claims previous to a settlement & either oblige Governors to make concessions to them, or else refuse to make a settlement upon them, & quarrel with them. Such an instruction, if thought proper to be given, may make an alteration, in the Instructions relating to his Salary, necessary, which will be fully explained in the observations on those instructions.<sup>8</sup>

On the 13<sup>th</sup> 9

The direction of this Instruction, with respect to the Acts of Assembly, is very clear, but what is meant by *orders for levying money* is not so well understood, nor does it appear, whether, by orders, is to be understood, *Ordinances, or orders for levying money, by one or more branches of the Legislature, in contradistinction to the Council or Participation of the whole.*

IT IS THEREFORE HUMBLY SUBMITTED,

That the meaning of the words *orders for levying money* be fixt to some determinate sense.<sup>10</sup>

On the 22<sup>nd</sup> 11

This Instruction leaves no doubt, who is to be the Keeper of Acts & publick Orders, & of the Journals of the Council, & who is to make copies of the same.

Notwithstanding many disputes & contests have been occasioned, thereby, (as Profits arise from the Copyes of each) between the Officers of Government.

<sup>8</sup> No change was made in the instruction in consequence of this observation.

<sup>9</sup> See § 265 prescribing the style to be used in acts or orders for levying money or imposing fines.

<sup>10</sup> Although expanded in the instructions of 1755, this article remained unclarified on the particular point referred to. See § 266.

<sup>11</sup> See § 218 G, requiring from the secretary copies of all acts and public orders and of the council journal.

IT IS THEREFORE HUMBLY SUBMITTED,

That it be expressly declared who is to be the keeper of all the Records, & "whether the secretary or the Clerk of the Assembly & the Clerk of the Council, are to have the profits of the copies of the respective papers, mentioned in this Article".<sup>12</sup>

On the 23<sup>d</sup> <sup>13</sup>

This also determines, who is the proper person to make copies of the Journals & other proceedings of the Assembly, but many contests have arisen, "who ought to be the Keeper of the Journals & proceedings"? During the sitting of the Assembly, the Clerk should seem to be the proper person: but it is a question, whether, when the Assembly is under an adjournment for any time, the Clerk is a proper person to be trusted with the Records and Journals, in as much as he gives no security for his Office, & that no private house, or House of Trade, can be a proper place for keeping of publick records: it should therefore seem right, that the Secretary, who is the publick Officer of Government, & has a Publick Office for keeping the Records should, even *during an adjournment*, have the custody thereof, as well for their greater security, as to prevent any private Man's having it in his power to alter them in any shape. On a dissolution it has lately been determined at Bermuda in Council, "that the Secretary ought to have the custody of them", but not on an adjournment; a point very necessary to be determined one way or another, to prevent disputes among the Officers of Government.

The same arguments may be alledged against the Clerk of the Council keeping the Journals of Council & so much the rather, as by the preceding Instruction, the Secretary is to transmit Copy's, these copy's go under the Publick Seal in which the Secretary is always present, and has a fee, but the Perquisites of the copy's have hitherto been to the Clerk of the Council, who makes them, & not to the Secretary, who claims in virtue of his Commission, & of the 22 Instruction, the profits thereof.

IT IS THEREFORE HUMBLY SUBMITTED,

That the words, or other proceedings, be explained & that in lieu of the words, or other proper Officer, these words, or the secre-

<sup>12</sup> The uncertainty was settled in the instructions of 1755 by an amendment of this article and by the inclusion of a new article. See § 218 C, G, and § 549.

<sup>13</sup> See § 219 A, requiring from the assembly clerk transcripts of the assembly journal.

*tary; be substituted, and that the rights of these Officers should be settled. . . .<sup>14</sup>*

On the 24<sup>th</sup> <sup>15</sup>

The intent of this Instruction was to prevent Governors from being dependant upon Assemblies for a support, to obtain which, it was thought, (& perhaps formerly found) they complied too much with the inclination of the people, in matters of Government, Trade &c., But however prudent it was to prevent such effects, it was not the Royal intention, that the profits of Government should be lessened, thereby, as is evident by the permission given to Governors to accept a salary under certain conditions.

IT IS THEREFORE HUMBLY SUBMITTED,

That some general words be added to this Instruction (referring to what shall be directed by the 27<sup>th</sup>,<sup>16</sup> to this effect. "And whereas our Royal intention is not to take from you, our Governor or Commander-in-Chief, any of the profits which our former Governor enjoyed, with it not equivalent in lieu thereof, our Will and Pleasure is, that you shall conform yourself, in this respect, to what shall be directed by your 27th Instruction relating to your salary."<sup>17</sup>

On the 25<sup>th</sup> <sup>18</sup>

The allowing the Governor to take the 12 shares of land, valued at £60 sterling, (which are accordingly deducted from the home salary, formerly enjoyed by the Governors of Bermuda) is attended with many inconveniences, the principle of which are as follows,

- 1<sup>st</sup> It prevents any Inlargement of the town as the number of inhabitants may increase.
- 2<sup>nd</sup> It keeps it poor and dependant on the Country.
- 3<sup>rd</sup> It prevents its being the Centre of Trade.
- 4<sup>th</sup> It occasions many Incroachments by the inhabitants, who, being straitned for want of room, extend the limits of the Town, by building upon the Governor's Lands.

<sup>14</sup> In the 1755 instructions no change was made in § 219 but a new article was included settling in favor of the clerks the doubts raised in this and the preceding observations. See § 549.

<sup>15</sup> See § 345 A, E, forbidding gifts to the governor by the assembly.

<sup>16</sup> See § 353 last half, from BUT to the end, permitting the assembly to grant money for the maintenance of the governor's house.

<sup>17</sup> No change such as proposed was made in § 345.

<sup>18</sup> See § 353 D, first half, down to BUT, prescribing the sources of the Bermuda governor's salary.

Many houses being already erected on the said lands, to the prejudice of the Governor, & contrary to right and Justice.

IT IS THEREFORE HUMBLY SUBMITTED,

That the sum of £60 sterling be paid to the Governor, out of his Majesty's exchequer, as formerly, & that the lands now belonging to the Governor, be let as his Majesty's other lands are, the profits arising therefrom, to be disposed of, according to his Majesty's pleasure, to be signified by a particular Instruction, as will be mentioned in the observation on the 78<sup>th</sup>, 79<sup>th</sup> & 80<sup>th</sup> instruction.<sup>19</sup> Or,

That the Governor be directed to take out of the produce of the Liquor Act, the said £60 sterling (as the Lands are now valued at) & that the Income which will arise from letting the said lands, replacing, as far as it may, the said £60 sterling, to be taken out as aforesaid, which will make the said Lands, let to more advantage, as the letting them will be a *Saving to the public*, & no loss to his Majesty.

That the small park annexed to the Government House, remain with the Governor for raising of stock, and feeding of cattle, for the family consumption, which lying to the northward of the town, can never be wanting for the enlargement thereof, nor for the Commodity of grazing cattle for the inhabitants, there being land enough besides, and, finally, if neither of these proposals should be approved of,

That the lands now appropriated to the Governor, be laid out and surveyed at the Country's charge, & that such persons as have encroached thereon, be obliged to pay rent for their houses, at the usual rate paid for houses in the Town.<sup>20</sup>

#### On the 26<sup>th</sup> <sup>21</sup>

The laying the Whale-Fishery open to the inhabitants, was done at the request of the country,<sup>22</sup> who, after some contests with the Governor, complied with the royal instruction, in settling the £100 sterling, in lieu of the profits arising from granting such licences.

<sup>19</sup> See below, pp. 872-877.

<sup>20</sup> No change was made in the provision for that part of the governor's salary growing out of the public lands until 1758. See §§ 795, 857.

<sup>21</sup> See § 354 A, forbidding the governor to take part of his salary, as formerly, from licenses for the whale fishery.

<sup>22</sup> A note in the margin reads: "G. Pitt's time." The change was made by circular instruction, March 6, 1730, during the Bermuda administration of John Pitt. See §§ 954 and 354, also *Acts, Privy Coun., Col.*, 1720-45, pp. 264-265.

The first Act past, should have been made perpetual, Indifinite, or to continue till his Majesty should be pleased to resume the said Fishery; which would have prevented all the ill consequences, that have since flowed therefrom: But a former Governor's treading in their Predecessors steps, and mistaking his Majesty's gracious intentions, or being desirous of obtaining the £100 a year sterling, for the time of their Government, have assented to divers Laws which expired with their death, or removal from the Government; by which his Majesty's Governors may, & *the present Governor in particular, has suffered greatly*, it being the opinion of his Majesty's Attorney & Sollicitor General, "*that the succeeding Governor has a right to the £100 sterling, from the death or removal of the former*". As will more fully appear by their opinion hereunto annexed.

The Assembly of Bermuda, on the arrival of the present Governor, having refused to pay the £100 sterling, for the benefit of the Whale-Fishery, and having addressed his Majesty to resume the said Fishery, & the Governor having at the same time humbly represented the same to the King, His Majesty has been graciously pleased to resume the said Fishery, in case the Assembly should persist in refusing to pay the £100 sterling as they accordingly did.<sup>23</sup>

The Whale-Fishery being now restored to its former footing, the Governor was willing to grant licences for the said Fishery, upon the same terms that it was before it was laid open. But the Inhabitants refused to agree thereto, insisting upon paying at the rate of £14 this currency, according to the late Act in the late Governor's time, which laid so much upon each old Whale so caught, not considering, that, by the said Act, the whole sum of £100 sterling was to be paid out of the Treasury to the Governor, whether the sum of £14 on each old Whale, produced £100 sterling or not.

However, the present Governor, that the Inhabitants might not have it to say, he deprived them, of the advantages of the fishery, or the Island, of the benefit of the oil, which is chiefly burnt here in lamps &c. agreed with them at the rate of £14 for each old Whale, & instead of £140 this currency, or £100 sterling, received only £42 for the year 1750. £14 for the year 1751 & nothing for the present year 1752. Loosing in three years time £364 in this article only.

in 1753 Seven Whales £98.	}	Loss £178
in 1754 one whale      14.		

<sup>23</sup> See § 355.

## GOVERNORS' OBSERVATIONS

IT IS THEREFORE HUMBLY SUBMITTED,

That the £100 deducted from the Governor's home Salary on account of the Whale Fishery, be paid out of the Exchequer, as formerly, or,

That the Governor be directed to take from the produce of the Liquor Act, the said sum of £100 sterling to be replaced, by the profits arising from the said Fishery. This will restore the fishery to what it was formerly, as it will become the General concern to take care of it, which otherwise, in a few years, will be totally lost to the inhabitants, as well as to the Governor.<sup>24</sup>

On the 27<sup>th</sup><sup>25</sup>

This Instruction, by restricting Governors from receiving a salary *annually* which might render them as dependant, as annual gifts and presents, formerly might, seems to have been formed with the same intention as that, but however wise in its intention, it has not, by any means answered the end for which it is proposed, at least in Bermuda.

This Instruction sets forth the present insufficiency of the present provision of a Governor, & in consequence thereof, permits him to receive a salary from the country. This Salary is to be settled on him *for the whole time of his Government and by the first Assembly*.

Governor Hope (at present S<sup>r</sup> John Bruce)<sup>26</sup> was the first Governor who had such an Instruction, the Records of his administration sufficiently show, what attempts the Assembly made, & how many different shapes they threw the matter in, before they complied in any degree, & that the Governor was at last forced to take it, *in a manner, which was not conformable to his Majesty's Instructions.*<sup>27</sup>

Governor Pitt, who succeeded S<sup>r</sup> Jn<sup>o</sup> Bruce, was obliged to promise

<sup>24</sup> Popple's suggestion that the £100 salary be taken from the produce of the liquor act was not adopted in the 1755 instructions. Instead he was directed to continue to take the proceeds of whale licenses and the assembly was urged to make good his losses mentioned above. See §§ 355 A, 356.

<sup>25</sup> See § 353 last half, from But to the end, permitting the assembly to grant money for the maintenance of the governor's house.

<sup>26</sup> John Hope, third son of Sir Thomas Hope, Bart., of Kinross, was governor of Bermuda from 1721 to 1728. Like his brother before him he added the name of Bruce to his own upon succeeding to the Kinross estates and baronetcy about 1740. Cokayne, *Baronetage*, II, 344.

<sup>27</sup> Opposite this paragraph is the marginal note: "Vide Mints of Assy the 25<sup>th</sup> Septr 1722 the 12 Oct. 14 & 15 Nov. 5 & 6 March 1722/3." Opposite the next two paragraphs are the marginal notes: "V. do," and "V. Mints," respectively.

*Indulgence in Entring & clearing before he could bring the Assembly into a settlement, and when he at last succeeded in getting one, he had, besides, annual allowances made him, by way of Bills, on sundry articles, which was evading the Instruction.*

The late Governor got a settlement with less difficulty than S<sup>r</sup> Jn<sup>o</sup> Bruce & Gov<sup>r</sup> Pitt, but the Assembly endeavoured first to prevail on him to accept of an annual Income.

Before the arrival of the present Governor, it was pre-determined, *that no settlement should be made on him.*

The Assembly, when met, publickly refused a settlement, & the council not willing to appear against a Royal Recommendation, underhand abetted them: it was, however at last carried, but having been done in an improper manner, it was set aside. The succeeding Assembly encouraged thereby, refused to pass the proper Acts, on His Majesty's second gracious recommendation, and no settlement has to this day been made.

This is the History of this instruction, since it was first given, & every Governor has had more or less contests on this Account, with the different Assemblies of Bermuda, to reason on it,

A Governor, on his arrival, expects naturally to be treated as his predecessors, & as, by his Majesty's favour and instruction, he is put upon the same footing, his expectations are not unreasonable.

An Assembly, dissatisfyed, perhaps with the conduct of a former Governor, or, if not, yet knowing, that many things may depend upon a Governor, is willing to try to come to terms with him, before they agree to a settlement, which puts him out of their dependance.

When different Branches of the Legislature have different Interests, it is not to be expected, there can be any *Great Harmony* between them.

Other Assemblies in his Majesty's Dominions have cheerfully submitted to His Majesty's Instructions, & conceive it their interest to treat a Governor, according to His Majesty's intention. Their common Interests meet in this point, and the harmony between them is not interrupted on this account.

Bermuda at present stands out, & with less reason than can be alledged in behalf of any other of his Majesty's Colonies, in as much as they pay no tax, either on the land or the produce thereof, which consideration ought to make them contribute the more readily to a settlement.

The Provisoes in the Instruction, it is apprehended, are the oc-

casion of their standing out, namely, that *the settlement must be made for the whole time of the Governor's administration*, & by "the first Assembly after his arrival".

The Inconveniences resulting from these Provisoies are many: To instance in the latter,

The Assembly knows, a Governor will not dissolve them, if he can possibly avoid it, because he precludes himself from any settlement, ipso facto, & cannot ask for one.

This occasions them, not only to hold out, but to rise in their demands, the consequences of which may be, under certain circumstances, a dissolution, or a stagnation of all intercourses between Governor & Assembly.

If a Governor thinks it his duty to dissolve them, on Account of some unparliamentary pretensions, they carry their point against him, *as to the settlement*, and he is not warranted by his Instruction, to ask for one.

This lays a foundation of constant uneasiness, between the Governor and Assembly, and although his duty may make him concur to what may be for the publick service, it cannot be expected, *there will ever be any great Harmony, confidence, or love between them*: which, let men be ever so prudent, will, nevertheless sometime or other, effect the public interest.

If a Governor does not think it his duty to dissolve the Assembly, & yet cannot bring them to give up their pretensions, he has nothing left to do, but to represent the matter at home, which must necessarily occasion a Lukewarmness, in publick business, so long as the matter in dispute, remains undecided there, as well as promote heats and parties.

A Governor may likewise hope to bring the Assembly to terms, by adjourning them from time to time, at least may be tempted to try or may keep them sitting & expostulate with them, on the matter in dispute, both of which, retard at least, the dispatch of the publick business, & often create heats & animosities, destroy mutual confidence, & render the one ill disposed to the other.

As to the intent of the Provisoe, it is presumed, it is designed generally as a preventative against frequent dissolutions, & in consequence thereof, Cabals in Elections, partial or unfit returns of the representatives, & pack'd Assemblies: but if it should appear, that none of these consequences are prevented by it, & that it will rather occasion them, than not, (as will be shewn immediately) it is humbly

submitted, whether it may not be more adviseable to leave the settlement to be made by any Assembly.

If it is to be supposed, that there will be any Caballing in elections at all, how does this instruction prevent it?

Under the Instruction, the first Assembly is to make the settlement, this Assembly is called by writs & the writs are returnable at a certain stated period.

What prevents a Governor, previous to the issuing and return of the writs, from caballing with the electors, fixing upon men, & securing the Voters. Is it not rather an encouragement (as it will be but one trouble) to employ all the influence he may have, in this first election, as the determination of his interest depends so much upon this first choice? Whereas leaving the settlement to be made by any Assembly, a Governor may have a chance, from free elections, even after a dissolution, but supposing the worst, & that by leaving the settlement open, a Governor may be tempted to dissolve a first, & try a second Assembly, it is but influencing a second, instead of a first election, as it is fixed, does not prevent the first, & the ill consequences of altering it, would be no more, than what now may be practiced under it, as it now is.

If this therefore, was the reason & intention of the instruction, & that it was so worded to prevent the abovementioned undue practices, & if, as it is evident, many ill consequences may flow from this Restriction, and none can happen under its being left open, but what may, under the present Provisoe, it is humbly submitted, whether it would not be more advisable to leave the settlement to be made by any Assembly, then to restrict it to the first.

As to the other provisoe, it restricts the Governor from assenting to any Bills of settlement for less time, than during the whole Administration, it is (however wisely calculated to prevent dependance) productive of many ill consequences, equally pernicious to Government.

For,

*"The very reason which was the occasion of giving this Instruction, is the very reason that prevents the Assembly from complying with it."*

The Assembly is not averse to making a settlement but they will make it their own way: the Governor is desirous of having a settlement, & can receive it but one way, which is not their's. He disobeys the King, if, out of regard to a reasonable view of interest, he com-

plies with their terms; & makes them his enemies, if he refuses, his road is plain, but in perusing it, he loses the intention of his Majesty's favour, & the benefit of the Instruction, by adhering to it.

This is the situation, at present, between the Governor & the Assembly; Sir John Bruce had an Instruction (tho' for what reason it has been ommitted since, does not appear) which pinn'd this provision down upon the Assembly, made their Non-Compliance a sort of disobedience: the words are as follows:

*"And we do further direct & require that this declaration of our royal will & pleasure be communicated to the Assembly at their first meeting after your arrival in your Government, & entered in the Register of our Council and Assembly there, that all persons whom it may concern; may govern themselves accordingly."<sup>28</sup>*

By these words it appears to have been *His Majesty's will and pleasure*, that a settlement should be made, & the council & Assembly are to have this declaration registered, that they may govern themselves accordingly.

But how does this instruction, (as it at present stands) prevent dependency? suppose a settlement made, if people want favours from a Governor, & he is Venal; it is but paying a greater price for it, he is, with all the caution of this Instruction, open to corruption, his Pulse may be felt, & if the favour is worth buying, & he is of a mercenary disposition, the bargain may be struck, proper precautions against a future discovery, had on both sides.

Upon the whole, this proviso carries a supposition along with it, of Venality and corruption in a Governor, contrary to so great a trust as is reposed in him, which, is ill founded against a good Governor, & only puts a bad one upon his guard; It may have been Politically right in the respect for which it was designed, but whether it may be so in every other, is submitted.

The following words, "*for the keeping up & repairing of the house allotted for our Governor*", seems contradictory to the preamble and reason of this Instruction as well as to the third clause of the 28th,<sup>29</sup> & have occasioned frequent contests between the Governor and Assembly.

It could not be his Majesty's meaning that the Governor, out of this salary, sho<sup>d</sup> repair and keep up the Government House, be-

<sup>28</sup> See § 346.

<sup>29</sup> See § 240, par. 4, urging that the assembly provide for the upkeep of the governor's house, the prison, guard houses, fortifications, etc.

cause the reason for one, assigned in the preamble, is “*the insufficiency of the Governor’s appointments, to support the dignity of Government, and that the 28th instruction expressly directs, that the Governor’s House, prisons, Fortifications, & all other Publick Houses & places be repaired & at the countrie’s charge made good &c<sup>a</sup>*” nevertheless, the Assemblies, under colour of these words, always insert a clause with this condition, in the Acts of settlement, & Governors on the other hand, have as constantly made a charge for repairs on the country in virtue of the 28<sup>th</sup> Instruction, & in passing publick Bills, have always insisted on their payment, which, after some contests, has been accordingly complied with, but the different Assemblies held since the late Governor’s death, have carried matters to a most unreasonable length, & have not only refused to make a settlement, but *to provide even for the repairs of the House* which were necessary to be made on the present Governor’s arrival, part of which he has paid out of his own pocket, & part remains unpaid to this day.

IT IS THEREFORE HUMBLY SUBMITTED,

That the words in S<sup>r</sup> Jn<sup>o</sup> Bruce’s Instructions, be restored and enforced, in such manner as their Lords shall think proper: that if nevertheless the Assembly shall still refuse to make a settlement on the Governor, he be directed to take from the produce of the said Liquor Acts, the salary paid to the late Governor, & that his Majesty signify his pleasure, that the deficiency hereby occasioned, be made up by an Act to be passed, *laying a duty on vessels & shipping*, as was done by the late Act &c<sup>a</sup> for the use of his Majesty, his heirs & successors, which for reasons already set forth,<sup>30</sup> are met with no lasting opposition, tho’ it may at first, & will render the Governor independant on the people, as their Interests, will be quite separate and distinct.

This will entirely restore peace to Bermuda, which is now, & will always be, liable to be interrupted by the Governor’s refusing unwarrantable indulgencies, & the people a settlement without: Governors will do their duty; & the people having no hold upon them, will not have it in their power to distress them. Each branch of the Legislature, by being thus independant of each other, will return within their due Bounds, & neither give up on one side, nor insist on the other, on unreasonable & unjustifiable pretensions.<sup>31</sup>

<sup>30</sup> Opposite this point is the marginal note: “V: L<sup>s</sup> to the Board.”

<sup>31</sup> The article to Hope (Bruce) requiring entry in the council and assembly

On the 28<sup>th</sup> <sup>32</sup>

The first and second clauses in this Instruction are wholly useless, in as much as no tobacco is grown, or exported from hence, and no Quit Rents paid for lands enjoyed by the Inhabitants.<sup>33</sup> These two clauses seem to be the remains of the Company's Instructions to their Governors formerly.

The following words in the third clause, namely, "*and that the Assembly settle such Levy or Levys, & direct the payment thereof*" seem to want Precision.

If they mean no more than the *appropriating clause* usual in all Money Bills, (as it is conceived they do not), other words might be made use of to hinder any larger construction to their sense to prevent disputes, which happen too frequently, if the most forced construction of words can give the least foundation for any claim.

IT IS THEREFORE HUMBLY SUBMITTED,

That the first and second clauses be omitted & that the following words, in the third, namely, "*and that the Assembly settle such Levy or Levys, & direct the payment thereof*". be left out, or else that these words, "*to be appropriated for these purposes*" be substituted in lieu thereof.<sup>34</sup>

On the 29<sup>th</sup>, 30<sup>th</sup> & 31<sup>st</sup> <sup>35</sup>

The 29<sup>th</sup> Instruction restrains "*a Governor from coming to Europe without leave*".

The 30<sup>th</sup> only directs the President or Eldest Councillor "*to take upon him (in case there sho<sup>d</sup> be no Lieutenant Governor) the Administration upon a Devolution by death or absence*".

The words in the 31<sup>st</sup> Instruction stating & determining the President's right, are as follows, "*our Will & Pleasure is, that when it*

registers of the clause against gifts was restored in the 1755 instructions as Popple recommended (§ 346) but the rule limiting the grant to the first assembly was unchanged though the article was reworded. See § 357.

<sup>32</sup> See § 240 A, B, directing that the assembly's attention be called to certain particulars: an export duty on tobacco, the settling of quit-rents, and the maintenance of public buildings by levies.

<sup>33</sup> An asterisk at this point indicates a marginal note: "V. Observa in the 78th and 79th Instruction." See below, p. 872-877.

<sup>34</sup> The entire article was omitted from the instructions of 1755.

<sup>35</sup> See § 114 E, forbidding the governor to go to Europe without royal leave; § 127 authorizing the eldest councillor to assume the administration on the death or absence of the governor; and § 403 authorizing an acting governor to receive half the governor's salary and perquisites during the latter's absence.

*shall happen that you shall be absent from these our Islands, one full Moiety of the Salary, & of all Perquisites & Emoluments whatsoever, it would otherwise have become due unto you, it, during the time of your absence, be paid & satisfied unto such Commander in Chief &c.”.*

These words cannot relate to a devolution of Government by death or removal, because, in either of these cases, there is *no salary* existing either from the *Island* or at *Home*; w<sup>ch</sup> would make the application of these words, a contradiction in terms, It can relate only to the occasion of absence, in which circumstances, the president, by this Instruction, has an undoubted right to the moiety of the Salary granted by the Assembly, & to all the fees and perquisites of Government from the Offices there, but no Governor can be said to be absent from his Government, till such time as he has been there, the Common Acceptation of the word Absence, implies *a previous being in a place*. If a man sets out from England, he may probably be said to absent himself, or to be absent, from England; but a man cannot be said to be absent from Bermuda, who was never there, nor can these words, it is humbly presumed, give the president any right to the Moiety of the home Salary, on the appointment of a new Governor, because the words immediately preceding them, namely: “*our will and pleasure therefore is, that when it shall happen that your shall be absent from these our islands*”, fix it to the precise circumstances of a Governor’s absence from his Government. Now, tho’ his Majesty’s Commission appoints him from the deed thereof, Governor, & he is in effect Governor, he does not act till, his arrival, as Governor, nor is he established Governor in the Islands, till, his Commission has been published there, w<sup>ch</sup> determines the Presidents power of Acting, who, till his arrival, does on [sic] the offices of Government, by what right of Law or Equity can one man claim a benefit under a circumstance incident to another, till the circumstance which gives him that claim exists?

Upon the whole, it is submitted, that from the natural construction of the words, it results that the right of the President, presupposes a Governors absence, after there are upon his office, & that this right is to continue, only for such absence as no provision is expressly made by the 29<sup>th</sup> & 30<sup>th</sup> Instruction; & that the general words introductory to the provision made by the 31<sup>st</sup>, cannot be extended beyond the sense, to which they are therein restricted: but as it could never be his Majesty’s intention, that the office of Governor should

lye upon the President, or Eldest councillor without any profit, accruing to him from the execution thereof, it has been customary on a devolution, for him to take one half the fees and purchases of Government, as as [sic] assisted in that juncture (namely,  $\frac{1}{2}$  the perquisite offices &c.) till the arrival of the succeeding Governor, after which, his Majesty's Instruction, on a future absence, naturally takes place, and determines the respective rights of each.

IT IS THEREFORE HUMBLY SUBMITTED,

That the President's allowance be set forth particularly, & distinguished, in the different occasion of Devolution, (by death or a Recall) & of absence. And that in the case of Devolution, it be (if their Lordships should be of opinion his Right extends no further) restricted to the fees of Offices, and in that of absence, extending as far as their Lordships judge it ought to extend.<sup>36</sup>

On the 32<sup>d</sup> <sup>37</sup>

This Instruction, it is humbly apprehended, is conceived in too general terms, these words, but the Assembly may nevertheless be permitted, *to view and examine the Accounts of Money, or Value of Money*, tho' followed by, & connected with these words, *Disposed of by virtue of Laws made by them*, have given Occasion to Pretences & Claims of Right, beyond even, what a British Parliament enjoys, & are at this instance, the occasion, in part, of the Disunion between the different Branches of the Legislature.

IT IS THEREFORE HUMBLY SUBMITTED,

That these Words, according to *Parliamentary usage* be added to this Instruction, or that the Assembly be allowed, *their Committee*.<sup>38</sup>

On the 33<sup>d</sup> <sup>39</sup>

Altho' the Multiplication of Officers of Government, where Officers are so little lucrative, as they are here, make it difficult to find a

<sup>36</sup> No change was made in subsequent general instructions in any of these articles as a consequence of this rather badly phrased observation.

<sup>37</sup> See § 304 requiring that money be issued by the governor's warrant only, but authorizing the assembly to view the accounts.

<sup>38</sup> Even before the receipt of these observations this article had been altered by an additional instruction, dated April 9, 1754, making special provision for expenditures under an act of 1698. But the 1755 instructions retained the same requirements as before respecting revenues from all other sources. See § 306 and *Acts, Privy Coun., Col. 1745-66*, pp. 230-231.

<sup>39</sup> See § 436 providing for the holding of a court of exchequer, and asking whether a permanent court should be established.

sufficient Number of proper Persons for the Execution thereof, it seems nevertheless necessary, a constant Court of Exchequer should be kept up, as most of the issues & Pleas relating to the Revenues & the Customs &c. are within the immediate Jurisdiction of this Court, & many things necessary to be done, relating to the Revenue & Customs, must proceed from the Exchequer Court & cannot be done by our common Courts here properly, unless they had in their Construction, the powers of this Court.

IT IS THEREFORE HUMBLY SUBMITTED,

That the Governor be instructed particularly to appoint Barons of the Exchequer, & that all Issues & Pleas relating to the Revenues & Customs, cognizable in the Court of Exchequer, be tryed in this Country.<sup>40</sup>

#### On the 36<sup>th</sup> <sup>41</sup>

By the first Part of this Instruction, a Governor for good & sufficient consideration, to be signified Home, may remove Judges, Justices &c. But, from the words immediately following, namely, "*and to prevent arbitrary removal of Judges & Justices of the Peace, you shall not express any Limitations of Time in the Commissions, which you are to Grant with the advice and Consent of our Council to &c.*" His Power to appoint (without the Express consent of the Council) Judges & Justices has been called in Question.

Not to dwell upon so extraordinary a Position, as that, a Governor shall have Power to *remove* Judges & Justices &c. without the consent of Council, & not have Power to *appoint*, but by their Consent, By his Commission he has *full* Power to appoint as aforesaid, without the Advice or Consent of Council, as, reference being had thereunto, will at large appear.

It is acknowledged, that his Instructions are always a *guide* and a *prescription*, where they are expressly mandatory for his conduct, in the Execution of his Commission, But be they which they will in the present case (which this Hon<sup>bl</sup>: Board is to determine) a Governor is unquestionably obliged to pay due Obedience thereto, & will always ask the advice & Consent of his Council, in the Appointment of these Officers.

But it is not to be supposed, (it is humbly urged) that the full

<sup>40</sup> No change was made in this article in subsequent instructions.

<sup>41</sup> See § 516 B, forbidding the governor to remove officers without good cause; and § 512 forbidding him to express any limitation of time in the commissions he should grant with the advice of the council.

Power convey'd by the Governor's Commission, is so totally restricted, or set aside, by these Words, & that *in no case whatever, he can appoint without their Consent*, which would be leaving him but one vote in thirteen, in the appointment of Officers and take away the Negative Voice, which the Commander in Chief always has in higher points, passing of Laws &c. Many cases may happen, on Contests between the Governor & Council, in which he may be under a necessity to exert the Power, which *ultimately* resides with him, in the Appointment of Officers, to prevent the stagnation of Justice &c<sup>a</sup>.

The End, for which they were inserted, is expressly said to be, to prevent the arbitrary removal of Judges and Justices but how the not expressing any Limitation of Time in their Commissions, prevents their Arbitrary removal is humbly submitted. All Commissions granted here, are during Pleasure, & which were in that form, long before the present Governor's time.

IT IS THEREFORE HUMBLY SUBMITTED,

That the Governor be Instructed to take the Advice of the Council, in the appointment of Judges, Justices &c<sup>a</sup>. but that these Words, which you are to grant with the advice and consent of Council, be either omitted, or so qualified as not to be construed into so large a sense, as to hinder him for appointing without the Advice & Consent of Council, nor give room for such construction.<sup>42</sup>

On the 37<sup>th</sup> <sup>43</sup>

The appointment of an Attorney General, to take care of the Rights and Interests of the Crown, is very proper, but without some reasonable profit annexed to such Office, the King's Rights and Interests will be very little taken care of. This Officer is allowed to make once a year to the amount of £20, Bermuda Currency; a small allowance for an Officer of this Sort, the Execution of whose Office, may occasion him to suffer more in his private affairs from the Enmity of those, he may be obliged to prosecute than he can get by it, (as in the case of the present Attorney General, who is a School Master,) & of course make him remiss in his duty; moreover, if the

<sup>42</sup> Changes more or less in line with Popple's criticisms had already been decided on in 1753 before the receipt of this paper and were incorporated in subsequent general instructions for all colonies. See § 513.

<sup>43</sup> See § 547 D, directing the appointment of an attorney general if not already done.

discharge of his Office, he should be obliged to Act against those, who are to Tax and allow a Bill, reasons enough will be suggested to keep him out of this little Profit, & to distress him this way also.

IT IS THEREFORE HUMBLY SUBMITTED,

That it be recommended to the Governor and Assembly, to pass an Act to raise a sum of Money for settling a proper salary on this Officer.<sup>44</sup>

On the 40<sup>th</sup> <sup>45</sup>

'The Direction to the Governor on this Instruction, is two-fold: that which regards himself, can relate only to the Courts of *Chancery* & *Admiralty* where he presides, but as some Doubts have arisen, as to his *Right of Sitting* in the *latter*, it is humbly offered—that to prevent Disputes, it would be advisable to add some special words to this Instruction. The other Direction to him can only be exerted by removing Judges for *Male Administration*, for he is not, as Governor, to interfere in Judicial Determinations.

IT IS THEREFORE HUMBLY SUBMITTED,

That instead of the words, in all Courts, these words, in the Courts of *Chancery* and *Admiralty*, or, after these words particularly, those of *Chancery* and *Admiralty* be added.<sup>46</sup>

On the 47<sup>th</sup> <sup>47</sup>

There are but two Patent Officers, to wit, the Secretary and Pro-  
vost Marshall (in one) and the Collector of the Customs, tho' this latter is more properly a Treasury Constitution: Both are at present executed by their Principals. The Secretary's claims have already been observed upon.

The Collector, besides his Constitution, has instructions from the Com<sup>r</sup>s of the Customs, which interfere with the Instructions of Trade of the Governor, and may occasion great contests between them, the preventing which would be highly necessary, but this can only be done, by comparing their different Instructions together.

<sup>44</sup> This article was amended in subsequent general instructions in accordance with Popple's recommendation.

<sup>45</sup> See § 411 directing the impartial administration of justice, especially in all courts in which the governor was authorized to preside.

<sup>46</sup> No change was made in this article in consequence of this observation.

<sup>47</sup> See § 530 F, H, respecting the activities of patent officers and their suspension in cases of misbehavior.

The Board of Trade and the Comm<sup>r</sup>s of the Customs can alone determine this point, many Instructions of Trade given to the Governor, & many of the Collector's are taken, & inserted totidem Verbis, from the Acts of trade, & have been given to each, tho' relatively only to one, to instance only in one case, the Governor (& the Collector) is Instructed, "*take care that all places of trust, in the Courts of Law, & in what relates to the Treasury of our said Bermuda Islands be in the hands of our native born subjects of Great Britain, or Ireland or the Plantations.*"<sup>48</sup>

It is humbly submitted, what the Collector has to do, with the filling up the Posts of the Courts of Law, & of the Treasury? Moreover,

By this Instruction Power is given to the Governor to suspend the Collector for misbehaviour & to appoint another, *pro Tempore* under certain Limitations & restrictions, and by his 17th instruction of Trade, he is particularly to correspond with the Comm<sup>r</sup>s of the Customs, & advise them of the failure, neglects, frauds, & misdemeanours of the Collector.<sup>49</sup>

The first establishes a *Superiority* in the Governor, under this Officer, & an obligation on the latter, to render an Account to him of his conduct: and the second is a Right in the Governor to see this Officer's Instructions when necessary, for how else should a Governor know, when he misbehaves, unless he is acquainted with what Powers he has.

IT IS THEREFORE HUMBLY SUBMITTED,

That it be recommended to the Hon<sup>bl</sup>: the Comm<sup>r</sup>s of the Customs to instruct their Officer to be Observant of the Governor, & Assistant to him in matters of trade when required, and that all Instructions, which this Officer receives from them, & do not relate to matter of Trade & the revenue, be discontinued.<sup>50</sup>

On the 51<sup>st</sup>, 52<sup>d</sup>, 53<sup>d</sup>, 54<sup>th</sup>, 55<sup>th</sup>, 56<sup>th</sup>, 57<sup>th</sup>, 58<sup>th</sup>, 59<sup>th</sup><sup>51</sup>

The Governor is ordinary but his power does not extend to the holding of any Ecclesiastical Court, nor is there any Commissary there.

<sup>48</sup> See § 1060, one of the trade instructions.

<sup>49</sup> See § 1062.

<sup>50</sup> This recommendation effected no change in the governor's instructions.

<sup>51</sup> See respectively §§ 714, 694, 697 K, 700, 701, 708, 711, 702, and 729 and 731, all relating to the maintenance of religion and the observation of ecclesiastical jurisdiction.

IT IS THEREFORE HUMBLY SUBMITTED,

Whether their Lordships think proper to talk with the Bishop of London on this head.<sup>52</sup>

On the 64<sup>th</sup><sup>53</sup>

However clear the Governor's Right may be to sit in the Vice Admiralty Court, a Doubt has nevertheless arisen, concerning the same.

IT IS THEREFORE HUMBLY SUBMITTED,

That the following words (*and when you shall appoint any person to sit in the Court of Admiralty, as your Deputy, you are to take Care that such person or persons do in all things conform to what is directed by the said Commission*)" be added to the end of this Instruction.<sup>54</sup>

On the 66<sup>th</sup>, 67<sup>th</sup>, 68<sup>th</sup>, 69<sup>th</sup><sup>55</sup>

These Instructions, tho' wisely calculated, have not been effectual, owing, as it is presumed, to a custom, that has introduced itself for some time past, of paying the King's tenants for this service, out of the King's estate here, without leave of his Majesty, & contrary to the 69<sup>th</sup> Instruction, & several Acts of Assembly, by which the Matrosses are to be paid by the publick, who (tho' they are principally benefited by it, & their safety depends thereon) have been discharged of this expence by the connivance of former Governors & Councils, who have taken upon them arbitrarily to dispose of the King's estate, without the Royal leave contrary to what was practiced ever since the Forfeiture of the Company's Charter, till the time of these Innovations.

IT IS THEREFORE HUMBLY SUBMITTED,

That the Governor be expressly instructed, that the publick tenants be paid out of the General Levy, & that some method be found out, in case of their refusal to serve as Matrosses to oblige them.<sup>56</sup>

<sup>52</sup> All these articles remained unchanged in subsequent general instructions.

<sup>53</sup> See § 634 directing the governor to put in execution the powers granted by his commission as vice admiral.

<sup>54</sup> No change was made in this article in consequence of Popple's recommendation.

<sup>55</sup> See respectively §§ 566 572, 633, and 580 and 611, military clauses relating to stores of war, precautions for defense, and assistance to other colonies. The first part of the 69th article (§ 580) in particular called for military service from the public tenants.

<sup>56</sup> None of these articles was changed in the 1755 instructions.

On the 71<sup>st</sup> & 73<sup>rd</sup><sup>57</sup>

The 71<sup>st</sup> Instruction was substituted, (on an Address to the King) in the place of an Instruction, *which obliged all vessels to load & unload in the Castle or Town Harbour* & (it is humbly submitted) contrary to Law, as it makes certain Places legal Places of Importation & Exportation, which are declared by Law, not to be so, “*for ports are understood to be, Places to which Officers of the Customs are appropriated, & are to have the Guidance of all Members & Greeks thereunto allotted, & Members & Greeks are there to have an Officer or Officers resident or attending, by way of Prevention, without which, & a particular licence or Sufferance, from the Port to which they belong, they are not legal places of Importation & Exportation*”.

By the 7th & 8th of William the third “*the Tressury & Comm<sup>r</sup>: of the Customs, may appoint such Places in any Town, Port, Harbour or Creek in the Plantations.*” But all places so appointed must have Officers.

The Governor, by his Commission (by & with the Advice & Consent of the Council) “*may appoint Ports, Harbours, Bays, Havens, & other places, for the Conveniency & Security of Shipping*”, & for the better loading & unloading of goods &c.” But he cannot establish Officers therein, which renders the Powers given him by his Commission, of no effect, moreover, if the Governor could appoint Officers in the said Places, which would thereby become Legal places of Importation & Exportation, he could not make them Ports, to all Intents & Purposes, being restricted by his 71<sup>st</sup> Instruction, “*to oblige all Vessels to enter & clear in the Castle or Town Harbour*”, which Restriction would in such case also, be contrary to Law, since Ports, by Law, are legal places of Importation and Exportation”.

By the 73<sup>d</sup> Instruction, he is “*to settle Orders & Regulations of Trade, with the advice of his Council, as may be most agreeable to the Generality of the Inhabitants*”. But this Power, however general, does not extend to constitute Bonds, without the requisites established by Law, nor to operate against the precise direction of his

<sup>57</sup> See § 968 A, requiring vessels to enter and clear at Castle Harbor or St. George's Harbor but not necessarily to load or unload there; and § 910 requiring the governor to regulate and encourage trade.

71<sup>st</sup> Instruction. Thus, as it should seem, the Powers of his Commission & in these Instructions, clash with it & invalidate each other.

The intention of the 71<sup>st</sup> Instruction, was to prevent unlawfull, & to establish fair Trade, (to the end, that his Majesty's Revenue & the fair trader, might not suffer,) by obliging Vessells to come into the town or Castle Harbour, to enter & clear; but it is so far from procuring this End, that it is an oppression and Hindrance to a fair Trade, as it now stands, & gives as many opportunities to illegal Trade, as if there was no Instruction at all.

So much has already been said concerning this Instruction in the several letters wrote to the Board, & in an address transmitted to their lordships in the year 1748, that it will be sufficient for us to observe

First, that under the Instruction, as it now stands, Vessells Load and unload where there is no Officer to have any check upon them.

Secondly, that only such Vessells as intend to enter & clear out, are under any obligation to come in Town Harbour, at least the following words, namely,—“*and you are hereby directed & required, for the future to oblige all Vessells to enter & clear in Castle Harbour or St. George's Harbour &c.*” have been construed so, & in consequence of these Words, only such Vessells *as do enter and clear, come into these Harbours, all others*, let them come from French or Dutch Settlements, or any other part, remain at the West End till they go to sea again.

Thirdly, Vessells after clearing out, go into the country before they proceed to Sea—all which give opportunities enough for unlawful Trade, notwithstanding all the care of this Instruction.

IT IS THEREFORE HUMBLY SUBMITTED,

That the 71<sup>st</sup> Instruction be made consistent with the Laws of Trade, & that the Collector be obliged to keep a searcher at the West End to go on board of Vessells on their coming in, & proceeding again to sea, by which means that part of the Island will become a legal Place of Importation & Exportation, according to Law.

That this Instruction be made consistent with the 73<sup>rd</sup> with respect to such orders & regulations as by advice of the council may be most acceptable to the generality of the Inhabitants.

That the obligation on Vessells to come into Town or Castle Harbour be taken off, & that all Masters of Vessells bringing a Certificate signed by the Searcher at the West End, of the contents of their

lading and permitted to enter & clear their Vessells without bringing them into the Town or Castle Harbour.<sup>58</sup>

On the 72<sup>d</sup> <sup>59</sup>

By the Powder Act passed in consequence of this Instruction, the Assembly have taken upon them to name the Receiver, & to make him accountable to them, jointly with the two other branches of the Legislature which, it is humbly conceived, is derogating from his Majesty's Authority, & interposing in the Royal Administration of these Islands, their right in this, extending as it should seem, no farther than, as in other Branches of the Revenue, to calling for the Accounts, but not to subjecting this Officer, to their immediate Power, This Act likewise, in what it enacts, & the manner in which it was passed is contrary to the Governor's Instructions, in other Respects.

IT IS THEREFORE HUMBLY SUBMITTED,

That the Governor be directed to recommend to the Assembly, the passing another Powder Act, not liable to the objections which may be made to the present Act.<sup>60</sup>

On the 74<sup>th</sup>, 75<sup>th</sup>, 76<sup>th</sup>, 77<sup>th</sup> <sup>61</sup>

THESE INSTRUCTIONS as far as they relate to the African Company seem rather calculated for His Majestys other Dominions in America than this place.

IT IS THEREFORE HUMBLY SUBMITTED,

That the alterations be adapted to the circumstances of the present Trades to Africa, as the late Company is now dissolved, & new regulations established.<sup>62</sup>

On the 78<sup>th</sup>, 79<sup>th</sup>, & 80<sup>th</sup> <sup>63</sup>

As to the Publick lands, (the king's) it has already been observed, that great misapplication has been made of the Revenue arising

<sup>58</sup> The first of these two articles was changed in 1755 in accordance with Popple's recommendation. See § 969.

<sup>59</sup> See § 598 B, urging a tonnage duty of gunpowder on incoming vessels.

<sup>60</sup> No change was made in this article in subsequent general instructions.

<sup>61</sup> See §§ 912 E, and 929-931, relating to trade in general and the protection of the interests of the Royal African Company in particular.

<sup>62</sup> All these articles were dropped from the general instructions of 1755.

<sup>63</sup> See respectively § 793 directing the governor to inquire into the public lands of Bermuda; § 792 A, ordering the continuance to public officers of their

therefrom, as Reference being had to the Publick Acc<sup>ts</sup> transmitted home, will more fully appear.<sup>64</sup>

It is also conceived, that if the Council or Assembly have anything to do with this, it will always be disposed of partially, & to save the publick expenses, which they are by the general tenor of the Governor's Instructions, & by many Acts of Assembly, to be at themselves, & which they are better enabled, than any of his Majesty's Colonies, to bear, as they are free, (as has been before observed) from any Taxes on Land, or its produce.

The Disposition of this Revenue, as well as the letting or granting these lands, under certain conditions, are, it is humbly submitted, with the Governor (who, also directed to advise with the Council) accountable Home for his conduct, subject to his Majesty's displeasure or punishment for misapplication thereof. The following deduction of the King's Right & State of this Matter, together, with what has been done herein, thro' the influence of the Council, & the Conivance of former Governors, will sufficiently point out the defects of this Instruction, & to what particulars the remedy should be applied.

By the 69<sup>th</sup> Instruction, it is expressed in so many words, that a Competent number of tenants on the Kings Lands, are to *attend the Forts & Guns & to keep watch*, & when old & unfit for Service, to be considered, out of the *general Levy*.<sup>65</sup>

By this Instruction, a *Service* is annexed to the *tenure* of the King's Lands.

By the 78<sup>th</sup> Instruction this Service, again called upon, & one direction to the Governor, among others, is to enquire, if this service may be well performed, with an increase of rent without oppression on the poor.

By this Instruction it is *implied* as clearly as if it had been expressed in so many words, *that these Lands are therefore let at a low Rate*, & a *Service* required in lieu of the full value of the Rent, for it would not be consistent with common sense, for the King to direct the Governor to enquire, if such service may be well performed with an *Increase of Rent*, if the rent paid was to the *full value* of the Land, or no rent at all was to be paid.

By the 79<sup>th</sup> instruction, the Governor is to continue to each Officer allowances of public lands and slaves; and § 932 requiring an accounting of the slaves formerly belonging to the Bermuda Company.

<sup>64</sup> A marginal note opposite this paragraph reads: "V: The Lrs: to the Board."

<sup>65</sup> See § 580.

of the Publick, the same quantity of Land, allowed them in the time of the Company.

The Governor has twelve shares of land, the Minister of St. George's two shares, the Sheriff four shares, the Provost Marshall two Shares, the Secretary two shares,<sup>66</sup> & the Ferry two Shares, all the rest of the Publick lands except what the Castle & the two Forts have, the former of which has been always, till the late Governor gave it for his time to Capt. Spofforth, in the Governor, who is Captain, & except the other Glebe, & School Lands) are his Majesty's real Estate; *unalienated*, & *unappropriated* to any use whatever by His Majesty.

And to shew, beyond all Contests, that the country has no right to dispose of any part of the profits thereof, nor to appropriate it to any use or service whatsoever, reference need only be had to the antient Records of Bermuda.

In the time of Sir Robert Robinson, (the first King's Governor) the Assembly having asked the Governor "*whether they might concern themselves with the Publick lands*", his Excellency gave them for answer "*that for the present they might employ the rents for defraying the Publick charge but not to be a Precedent*" And

In 1712 Queen Ann having been pleased to allow the sum of £200 sterling, to be paid out of the rents of her Lands, towards the purchase of a House for Governor Bennett & succeeding Governors the Assembly (these are their own words) "*Filled with the sense of gratitude, for Her Majesty's extraordinary favour in allowing the same to be paid as aforesaid, sent the Governor up an address thereupon*" & in a subsequent message prayed the Governor "*to give directions thereof accordingly for payment thereof*". Nay so far were they from thinking they had any right to dispose of the Money to any uses, even relating to the Maintenance of the Fortifications, that they assured Her Majesty, at the close of the said address "*that as this House has been always ready & willing so they shall continue to raise the necessary supplies for maintenance of the Fortifications, when occasion required*".

However striking & true these facts are, former Governors, instead of paying due regard thereto, have not only suffered the King's property to be given away, from him, & paid into the *Publick Treasury*

<sup>66</sup> Before "Provost Marshall" and after "shares" are asterisks calling attention to a marginal note: "N.B. These Officers are in one person vizt. The Secretary."

of these Islands, but have consented to the most improper payments thereout that possibly could be thought of, Vizt. Assize, Sermons, Treats for the Judges, paying the Militia Guard attending *the Judges, serving the Warrants, Summons, Messages, mending the Prison, Knocking of Fetter off, & carrying criminals to execution, & many other items if possible*, still more extraordinary.

However, to give, as it were, a Colour to these encroachments, on the King's property, there have been intermixed at Times (& more latterly) with these Items, *the payment of the Castle & Forts Men.*

But this payment is still more unjustifiable than any other, for it is not only contrary to the King's Instructions before mentioned, which directs a Service from the Tenants in the Forts, but takes away the *Duty of Service*, annexed to the *Tenor* of the lands, & (as if that was not enough) makes the King *pay* his Tenants for Services they *owe* him.

Nor is this all, for it is contrary to an Act now in force, past since 1690, & confirmed in 1704, which settles the pay of the Castle & forts men, at the yearly rate of four pounds each man, & directs the said pay to be made out of the Publick Revenue.

Upon the whole, the Council having an Interest in the disposing of the Revenue of the King's Lands will ever be byassed by that Interest, whereas the Governor can have known, but to take care that the Disposition of it, be according to His Majesty's most Gracious signification was Well moreover the Council in the letting these Lands. (If they are to have a right of Assent) will always favour themselves & friends, by letting them to the prejudice of his Majesty on too easy terms: And great waste of the Cedar that grows thereon, will always be winked at, for the above Reasons.

As to the 79<sup>th</sup> Instruction, part of it seems superfluous, as no Publick Officers, but the Governor, has any Slaves.

As to the 80th the Enquiry directed by it, shd<sup>t</sup> have been strictly made at the time of eviction of the Company's Charter, as there were many slaves in private hands, which were the King's property who have multiplied very considerably since, & would have answered the intent of this Instruction. But it does not appear by the records, that any considerable number were recovered, And in Governor Hope's time, there was such a deficiency of Negroes, that a sum of money, to the amount of £200, was voted for the purchase of negroes, for the service of the Governors.

On the arrival of the present Governor, there were but seven

slaves, one whereof was inform & past service, since which one is dead, & one has been purchased out of some money in the Treasurer's Hands for that purpose (being the produce of the sale of two Government negroes in the late Governor's time) so that instead of 12 slaves, the present Governor has but six, the unserviceable infirm one included.

The present Governor according to the direction of this Instruction, "*that he shd take care to have his full number, & leave the same number to his Successor*", Has laid the state of the negroes before the Council & Assembly, who have never condescended to take any notice thereof, tho' every Governor, till his time, had his allowance of £12 p Annum, for every negro deficient.

This want of the full Complement of Negroes, is an additional loss to the present Governor, which with the other losses abovementioned, namely, that of a settlement of the Whale Fishery & the loss of Firing, & Pinnace, & the Refusal to repair the Government House, renders him, in every respect, incapable to support the dignity of Governor.

IT IS THEREFORE HUMBLY SUBMITTED,

That the Governor be separately instructed on the several heads contained in these Articles.

That he be Instructed to acquaint the Council & Assembly that his Majesty reserves to himself, the right of disposing of the money arising from his Lands, & has instructed his Governor accordingly.

That the Governor be instructed, in case the Assembly shall refuse to keep up the number of Slaves, allotted to the Governor, to keep the same up out of the produce of this Fund, to him and his successors in perpetuity.

That the Governor be instructed, in case the Assembly shall refuse to repair the Government House, to repair the same out of the produce of this Fund.

That as no Publick Officer, but the Governor, pays any rent for the lands which he has, the Governor be exempted from paying £60 a year sterling out of the home salary as is mentioned in the Observations on the 26th Instruction,<sup>67</sup> or that he be allowed to take the said £60 sterling out of the Liquor Act as has been before proposed, & that the lands now the Governor's, except the small park about the House, be let out to tenants, as the rest of His Majesty's lands are.

That the Governor be instructed, to take the advice of the Coun-

<sup>67</sup> See above pp. 853-854, the 25th instruction (§ 353), not the 26th (§ 354).

cil in letting out to proper tenants, his Majesty's lands, in the Country, & to settle what service may be required from them.

That the Governor be also Instructed to take the advice of the Council, with respect to the disposal of the school lands to such masters or other persons as shall keep schools for the education of youth.

That what Instructions may be given in respect to the Whale-Fishery be comprehended in the 26<sup>th</sup> Instruction, & not mixed with other matters. And lastly,

That in case it should be thought proper to pay the Governor out of the Exchequer here his £60 sterling. or instruct him to receive the same out of the Liquor Act in Bermuda, he being instructed to take the advice of Council, in letting out the said lands to proper tenants.<sup>68</sup>

#### On the 82<sup>d</sup><sup>69</sup>

This Instruction seems to be one of the first given to his Majesty's Governors on the eviction of the Company's Charter, & is now quite obsolete.

IT IS THEREFORE HUMBLY SUBMITTED,

That this Instruction be left out.<sup>70</sup>

#### On the 83<sup>rd</sup><sup>71</sup>

This Instruction guarding only against the Miscarriage of Letters in time of War, it may be necessary to add something thereto, in time of Peace with respect to the Governor's letters instructed to Masters of Vessels.

IT IS THEREFORE HUMBLY SUBMITTED,

That the Governor be instructed to require from all Masters of Vessels, to whom he shall entrust his Letters directed on his Majesty's especial service a receipt for the same and that on his return

<sup>68</sup> This observation led to the inclusion in the 1755 instructions of an article calling for a detailed investigation into the public and school lands (§ 794) which in turn brought forth an additional instruction in 1758 calling for the sale or lease of these lands (§ 795). Art. 79 of the 1745 instructions (§ 792) was somewhat modified in 1755 and art. 80 (§ 932) was entirely dropped.

<sup>69</sup> See § 274 A, requiring an accounting by all officers who had received any public money since the eviction of the Bermuda Company's charter.

<sup>70</sup> This article was dropped from the 1755 instructions.

<sup>71</sup> See § 987 B, urging precautions against permitting letters to fall into the enemy's hands in time of war thereby conveying intelligence of the state of the British plantations.

back, he deliver to the Governor a receipt from the person to whom they were directed or from the Post Master of such Port he shall put into, to whom he shall deliver the same to be forwarded by the post, & that he be punished for refusing to take charge, or give receipt for Governors Letters in such manner as their Lordships shall think proper.<sup>72</sup>

On the 86<sup>th</sup> <sup>73</sup>

This Instruction, supposes a Receiver General of the Admiralty Rights & Perquisites, but as the Governor, by his Commission of Vice Admiral, is the Receiver himself, accountable to the Admiralty is called upon [sic].

IT IS THEREFORE HUMBLY SUBMITTED,

That this Instruction as quite useless, should be left out,<sup>74</sup>

### OBSERVATIONS ON THE INSTRUCTIONS OF TRADE.

On the 1<sup>st</sup> <sup>75</sup>

An Act of the 6<sup>th</sup> of Queen Ann, is recited in this Instruction as one of those the Governor is to observe but on some doubts formerly had, whether, or not this Act continued in force. S<sup>r</sup> Edw<sup>d</sup> Northey then Attorney General gave it as his opinion that it determined and ceased with the War, although it is by the words indefinite.<sup>76</sup>

IT IS THEREFORE HUMBLY SUBMITTED,

That this Act be left out, the observation whereof before I knew of the aforesaid opinion has occasioned some uneasiness in Bermuda.<sup>77</sup>

On the 3<sup>d</sup> <sup>78</sup>

The navigating of vessels with negro slaves is certainly an evasion of some part of this Act, which requires that 3% of the mariners be

<sup>72</sup> No change was made in this article in subsequent general instructions.

<sup>73</sup> See § 657 ordering the governor to make up his accounts with the receiver general of the rights and perquisites of the Admiralty.

<sup>74</sup> No change was made in this article in subsequent general instructions.

<sup>75</sup> See § 1035 listing the acts of trade which the governor was to enforce.

<sup>76</sup> The act in question was *An Act for the Encouragement of the Trade to America*, 6 Anne, c. 64. On Feb. 11, 1715, Attorney General Northey gave his opinion that the act had expired with the end of the war. *Cal. State Paps., Col., 1714-15*, § 215.

<sup>77</sup> The act continued to be listed, however, until 1765 when the titles of all acts were dropped.

<sup>78</sup> See § 1040 A, on the owning and manning of ships by British subjects.

British or of the Plantations, & in time of war may be attended with inconveniences, for on any emergency when sailors may be wanted (if my information is true) negro slaves cannot be pressed without security given for their value in case of their loss.

IT IS THEREFORE HUMBLY SUBMITTED,

That to avoid any disputes on this head some words be added to this Instruction, explaining what is the true construction of the Law in the case abovementioned, for if negroes are to be looked upon as British or Plantation subjects they may be pressed without security given, & if they are not, then they are not proper persons required by the words of the Act to Navigate vessels.<sup>79</sup>

On the 12<sup>th</sup> <sup>80</sup>

In the Collector's Instructions from the Commissioners of the customs in this head annexed to this Instruction, servants, apprentices, boys (except those put apprentices by parishes) are not to pay the Greenwich Hospital six pences, Negroes a Fortiori therefore should, not, & I think by memory, do not. The Navigation of Vessells by negro slaves is a defeating of the Intention of this Act, & a defrauding of the Greenwich Hospital money.

IT IS THEREFORE HUMBLY SUBMITTED,

That the Governor be particularly Instructed on this Head.<sup>81</sup>

On the 14<sup>th</sup>, 15<sup>th</sup> & 16<sup>th</sup> <sup>82</sup>

These three Instructions are no Instructions of Trade but Government, & as to the last, as no Officer except the Secretary & the Collector are appointed from home, the Instruction itself seems superfluous. These Instructions though foreign to the Province of the Collector are nevertheless given by the Commissioners to that Officer, & may occasion disputes between the Governor and him.

IT IS THEREFORE HUMBLY SUBMITTED,

That these Instructions be replaced among those of Government and that of the Collector's Instructions be restricted to Matters of

<sup>79</sup> No such clarifying words as proposed were ever added to this instruction.

<sup>80</sup> See § 1057 on the collection of sixpence per month from seamen's wages for the Royal Hospital at Greenwich.

<sup>81</sup> No such instruction was sent.

<sup>82</sup> See § 1056, requiring that cases arising under the acts of trade should be tried before no jury except one composed of British subjects; § 1060 requiring that judicial and treasury offices should be filled by British subjects only; and § 1061 authorizing the governor temporarily to fill judicial vacancies.

Trade, & the revenue arising therefrom & not extend to the Government.<sup>83</sup>

On the 21<sup>st</sup> <sup>84</sup>

This Instruction in one part of it, seems to be very severe, but as the case it provides against is very unlikely to happen,

IT IS THEREFORE HUMBLY SUBMITTED,

Whether this Honorable Board may think proper, to make any alteration at present as to the particular circumstances of Distress East India, Ships may be in, & to put them at least upon the same footing as foreign East India Ships.<sup>85</sup>

### OBSERVATIONS OF JAMES GLEN ON HIS GENERAL INSTRUCTIONS <sup>1</sup>

[C. O. 5: 374]

S<sup>o</sup> Carolina, April 1753

My Lords,

I am afraid Your Lordships will think that my observations upon the Instructions relating to the Acts of Trade and Navigation were drawn out to too great a length<sup>2</sup> I shall therefore endeavour to confine myself to a few short remarks upon my general Instructions.

Art: 9<sup>th</sup><sup>3</sup> As this Article is worded a Governors hands are tied up from suspending any of the Members of the Council even tho he may have a sufficient cause for so doing without he have the consent of the Majority of the said Council, a thing difficult if not impossible to be obtained, I would therefore humbly purpose that this Article might be altered after the following manner.

"You are neither to augment nor diminish the number of our said Council as it is hereby established nor to suspend any of the Members thereof without good and sufficient cause, and in case of the suspension of any of them, you are immediately thereupon to

<sup>83</sup> These three articles continued to be placed among the trade instructions, in spite of this observation.

<sup>84</sup> See § 1070 imposing checks upon clandestine East India trade.

<sup>85</sup> No change was made in this article in consequence of this observation.

<sup>1</sup> This letter was based on the general instructions to James Glen, governor of South Carolina, dated September 7, 1739, C. O. 5, 198, pp. 101-158.

<sup>2</sup> See below, pp. 885-905.

<sup>3</sup> See § 102 forbidding the governor to suspend councillors without due cause and without the consent of the majority of the council.

send us an account thereof with your reasons for such suspension;<sup>4</sup>

Art: 12<sup>th</sup><sup>5</sup> The Members of the Assembly are elected by Virtue of a law passed in 1721 while M<sup>r</sup> Nickleson was Governor, by which every free White Man who is Taxed twenty shillings Currency is capable of electing a Representative to serve in the Assembly whether he be a free-holder or not.<sup>6</sup>

Art: 13<sup>th</sup><sup>7</sup> Your Lordships will perceive that this Article of my Instructions which corresponds with the 14<sup>th</sup> Article of my Predecessor M<sup>r</sup> Johnsons is not exactly Similar to his, the instruction to him having occasioned great disputes. The Council strenuously insisting upon the right of framing altering or amending Money Bills and the Assembly as resolutely refusing to let the Council touch them, upon pretence that the last clause in the Instruction was a Key to the whole, and precluded the Council from any share in money matters. The affair having been laid before His Majesty in Council, it was thought proper (upon the most mature deliberation) to leave out the said Clause, and accordingly it is not in my Instructions,<sup>8</sup> but notwithstanding that the Claim of the Council to alter and amend money Bills may be thought to be thereby strengthened, I am nevertheless of opinion that Assemblys who are always tenacious of what they think their priviledges, and perhaps sometimes grasp at powers that do not belong to them will not easily suffer a Council to interfere or meddle with these matters.<sup>9</sup>

Art: 19<sup>th</sup><sup>10</sup> By this Article a Governor is restrained from giving his assent to any law for repealing any other Law whether the same has received the Royal approbation or not, unless there be a Clause inserted therein deferring the execution till His Majesty's pleasure be known, which I think may be attended with pernicious effects. It surpasses human prudence to make Laws so perfect as to need no alteration, they are the work of Men, the Laws of England have been amended; In new Countries General Assemblys cannot be such

<sup>4</sup> The participation of the council in suspension proceedings was increased rather than lessened in the general instructions of 1755. See § 102 D.

<sup>5</sup> See § 154 requiring the election of assemblymen by freeholders only.

<sup>6</sup> The article was continued unchanged in spite of this observation.

<sup>7</sup> See § 180 B, respecting the assembly's privileges, especially in regard to the framing of money bills and the council's right of amendment thereof.

<sup>8</sup> See *Acts, Privy Coun., Col.*, 1720-45, p. 622.

<sup>9</sup> No further change was made in this article in consequence of this observation.

<sup>10</sup> See last part of § 205, forbidding reënactment of repealed laws or passage of bills repealing other laws.

able Legislators as old Settled States, Laws made by them tho seemingly wholesome and Salutary may nevertheless upon a little experience and tryal be found poisonous and destructive, to the Constitution, I cou'd therefore wish that a Governors hands were not so strongly tied up.<sup>11</sup>

Art: 20<sup>th</sup><sup>12</sup> There is no duty laid in this Province upon the products or Manufactures of Britain, altho they are subject to Dutys in some other Colony's, there is indeed an old Act which has been continued from time to time for raising a Store of Powder for the defence of the Province, which imposes a duty of half a pound of powder per Ton upon all shipping coming into any Port in this Government, but as this is done in most other Provinces, I presume that it is not within the intention of this Article, but both the words and meaning of the Instruction are against the unequal manner in which it is laid, Vessels owned in this Province being eased of one half of the duty which puts the Inhabitants upon a more advantagious foot than those of Great Britain. There are also some small Fees paid to the Officers of the Customs, which cannot be thought contrary to the Instruction altho the words seem to imply that it is.<sup>13</sup>

Art: 26<sup>th</sup><sup>14</sup> By this Article the Governor is directed to propose unto the General Assembly and use his utmost endeavours that an Act be passed for raising & settling a Public Revenue for defraying the necessary Charge of the Government, and particularly for a competent Sallary to the Governor and all other Officers necessary for the Administration of the Government, and as I am convinced that nothing cou'd tend more to the benefit of the People than their complying with what is proposed in this Instruction, I have often tried to prevail with them, and have pressed those of the best sense and most generous way of thinking, to Joyn their endeavours with mine, but I have been assured by them and even by all Officers of the Government, that all attempts are vain; Possibly when their Circumstances admit of their sending their Children to England for their education, as in Jamaica and Barbadoes and they hereby become better acquainted with the Constitution of the Mother

<sup>11</sup> No change was made in the article in consequence of this observation.

<sup>12</sup> See § 227 C, relating to bills affecting the prerogative, property, and British shipping, and prohibiting discrimination in favor of inhabitants.

<sup>13</sup> This observation produced no change in policy, although the phraseology of the instruction was changed in 1755. See § 229 A.

<sup>14</sup> See § 386 A, referring to a permanent revenue and a salary for the governor in South Carolina.

Country they may yield to what is so much for their good, but till then I despair of seeing a Public Revenue settled for the necessary discharge of Government in this Province by any Law of their own making.<sup>15</sup>

Art: 35<sup>th</sup><sup>16</sup> There seems to be some contradictions in this article.<sup>17</sup>

Art: 48<sup>th</sup><sup>18</sup> Other days are appointed by Law for the holding of these Courts.<sup>19</sup>

Art: 53<sup>th</sup><sup>20</sup> This Instruction is an evidence of His Majesty's Paternal care of his People, and that he desires their happiness in the most distant parts of his Dominions, It's not being complied with, I hope will not be attributed to undutifulness, but to a want of knowledge of the Constitution, perhaps to a little wilfulness also, It being very difficult for communitys to correct their faults, for which reason the greatest care should be taken in the infancy of Colonys to withstand the beginnings of Evil, and not to permit the smallest deviation from the Constitution, A Tryal by Jury, is the Characterestick, the Badge of British liberty, and that the Jury should consist of Men of Substance not necessitous persons is an essential part of it, and this Gracious Instruction is calculated for that end, but the People refuse to be happy.<sup>21</sup>

Art: 63<sup>22</sup> In the eleventh parragraph of the Act for preventing frauds and regulating abuses in the Plantation Trade,<sup>23</sup> are words to the following purpose "For better executing the several Acts of Parliament relating to the Plantation Trade, It is enacted that the Lords Commissioners of the Treasury and the Commissioners of the Customs shall and may appoint such and so many Officers of the Customs in any Island &c as to them it shall seem needful"; but how far this or any other Act of Parliament enables them to delegate this Power or empowers the Surveyor General or any other by them appointed to name and appoint other Officers, may admit of

<sup>15</sup> This article was repeated unchanged in subsequent South Carolina instructions except that the addition in Glen's instructions referring to house-rent for the governor was dropped.

<sup>16</sup> See § 460 C, E, regarding the disposal of escheats.

<sup>17</sup> Some changes in wording appear in this article in the instructions of 1755.

<sup>18</sup> See § 463 regarding times for holding Courts of Oyer and Terminer.

<sup>19</sup> This article was dropped from the South Carolina instructions of 1755.

<sup>20</sup> See § 418 urging a law fixing the qualifications of jurors.

<sup>21</sup> This article was repeated in the instructions of 1755 but dropped from those of 1761.

<sup>22</sup> See § 559 authorizing the governor temporarily to fill vacancies in the customs offices during the absence of the surveyer general from the province.

<sup>23</sup> 7 & 8 Wm. III, c. 22.

some dispute, but it is clear that if they can devolve such a Power upon the Surveyor General, they may do it upon a Governor; and there may be some Proviso that Governors shall not make use of that Power while the Surveyor General is in the Province.<sup>24</sup>

Art: 84<sup>25</sup> This Article should be omitted.<sup>26</sup>

Art: 85<sup>27</sup> It is impossible to comply with this Instruction and therefore it might be omitted.<sup>28</sup>

Art: 98<sup>29</sup> This was an Instruction to Governor Johnson and in consequence of it a Law passed for remitting the arrears of Quit-Rents and for repealing a Law formerly consented to by the Lords Proprietors entitled An Act to Ascertain the prices of Land &c<sup>a</sup>, and by that Law His Majestys Quit Rents are now paid in Proclamation money; it passed in August 1731, and is number'd 544 in the printed Laws in Your Lordships Office; I shall take some other occasion to send some observations upon that Law, in the mean time the Instruction may be omitted.<sup>30</sup>

Art: 99<sup>31</sup> This Instruction may be omitted.<sup>32</sup>

Art: 107: 108: & 109.<sup>33</sup> These Articles may be omitted.<sup>34</sup>

I am with the greatest respect  
My Lord Your Lordships

Right Hon <sup>ble</sup> Commissioners for Trade & Plantations	} Most Obedient and Most humble Servant JAMES GLEN
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[Endorsed] South Carolina

Letter from Mr. Glen, Gov<sup>r</sup> of South Carolina to the Board,

<sup>24</sup> The article was continued unchanged until 1774, when it was dropped from the first set of general instructions issued for South Carolina after the creation of the American Board of Customs Commissioners.

<sup>25</sup> See § 559 directing the governor of South Carolina not to interfere with the military authority of James Oglethorpe in that province and in Georgia.

<sup>26</sup> Oglethorpe had not been in Georgia for ten years and the colony had meanwhile become a royal province. This article was dropped from the general instructions of 1755.

<sup>27</sup> See § 629 J, requiring the transmission of a map of the province.

<sup>28</sup> Nevertheless, the article was continued with only a minor change until the Revolution.

<sup>29</sup> See § 784 A, B, authorizing an act to remit the arrears of quit-rents.

<sup>30</sup> The article was dropped from the South Carolina instructions of 1755 in consequence of this recommendation.

<sup>31</sup> See § 341 calling for revision of an act for issuing bills of credit.

<sup>32</sup> This article was dropped and a new one given in the general instructions of 1755. See § 342.

<sup>33</sup> See respectively § 535 calling for a report on all proprietary appointments to offices; § 684 A, directing the development of good relations with the Indians; and § 884 regarding Purry's settlement of Swiss Protestants.

<sup>34</sup> The first and third of these articles were dropped from the instructions in 1755 but the second was continued until the Revolution.

dated in April 1753, with his Observations on His Majesty's General Instructions to him, in Answer to the Board's Letter dated the 3<sup>d</sup> of June 1752

Rec<sup>d</sup> Aug<sup>st</sup> 20<sup>th</sup> { 1753<sup>ss</sup>  
Read Dec<sup>r</sup> 13 }

OBSERVATIONS OF JAMES GLEN ON HIS TRADE  
INSTRUCTIONS<sup>1</sup>

[C. O. 5 : 374]

S<sup>o</sup> Carolina March 1753.

My Lords,

I have already acquainted Your Lordships that I have been honoured with your letter of the 3<sup>rd</sup> of June last, and that I should punctually obey what was contained in the first and second Paragraphs. The last Paragraph, tho' a short one, requires much attention, time, and care to answer it, it consists of two parts, the first regards my general Instructions these I have often read, revised, and considered, and am so well acquainted with, that I am sure I shall find abundant reason to admire (as I have often done) the Wisdom that framed them, and shall therefore be apt to doubt my Judgement, and even experience its self, should I point out a few things which might be wished altered in them, the other part of the work assigned me is to consider with the strictest attention my Instructions which relate to the Acts of Trade & Navigation, this being the most difficult part, I chuse to begin with it, and shall make it a distinct letter, and mix nothing with it, but tho' I thus divide my labour, I am afraid Your Lordships will find my letter sufficiently long.

In order to be able to make proper observations it appear'd in the first place necessary, to peruse once more all the Acts themselves that regulate our Commerce and Navigation, for tho' I had often read them, I had never studied them before, so as to be able to write upon them, and I was soon convinced that this Task which I injoined myself, would prove a very tedious one for those laws are far from being so clear as he that runs may read them, on the contrary,

<sup>ss</sup> See *Board of Trade Journal*, 1749/50-1753, p. 465.

<sup>1</sup> This letter was based on the trade instructions to James Glen, dated September 7, 1789, C.O.5: 198, pp. 163-191. Although written a month earlier than the letter on his general instructions, it is printed last to conform to the general arrangement of treating general instructions before trade instructions.

they are dark and difficult, they have been made at different times, and Penned by different Persons, who seem not to have had the same views of things, and when their Sense may have been the same, they have expressed it in a very different words. When I imagined I was pretty much Master of these Laws, I compared the practice here with them, and I endeavoured to get the best information I cou'd, what was the practice in other Provinces, or in Great Britain and from the whole I have formed my opinion, and have drawn observations, but with what success or appearance of reason is not for me to determine, I submit them to Your Lordships exact and unprejudiced Judgement; I can safely say that they are at least as disinterested as the remarks of any Governor can be, for I am not concerned in Trade directly or indirectly; I have not confined these Notes to such parts of my Instructions only as appeared to me liable to objection, but I have touched each Article, and have pointed out where in my humble opinion they may be altered, and where the Practice may be corrected, having in so doing exceeded the limits prescribed me in your letter, I must have recourse to Your Lordships constant Candour and goodness in passing over & pardoning the length of my letters, and proceed to,

Art. 1st<sup>2</sup> This Article after reciting the several Laws relating to the Plantation Trade, requires that the Governors should take a Solemn Oath to do their utmost that all Clauses, Matters & things contained in them should be punctually & Bona fide observ'd. This Oath I took before His Majesty in Council, and I renewed it after my arrival in this Province and I can safely say that I have religiously observed it, and I hope that all Governors do so, for tho our practice differs from one another, yet I presume that is owing to our understanding those Laws in a different sense,

Governors are to do their utmost to enforce the observance of the Laws, but I am afraid all they can do is very little; in England indeed if the Laws of Trade are not punctually observ'd, it must generally be owing to the negligence or connivance of Officers, there being Cruizing Vessels to intercept the Smugglers at Sea, Riding Officers to intercept the Goods on shore, Searchers, Tide Waiters, Land Waiters, Officers to Watch in the Night, others to tend in the day, and Officers kept on board all Vessels; But here we have few or no Officers, and these I believe never attend either the loading or unloading any Ship, and it is not possible they should attend all,

<sup>2</sup> See § 1035.

there are for example at present fifty nine Sail of Vessels in this harbour, some loading others unloading at a dozen of different Wharffs all along the Bay, a Street of half a mile in length, how can this great Mass of business be transacted by a Collector, a Naval Officer, & two Searchers w<sup>ch</sup> are all the Officers that are in Charles Town We have two more Ports of Entry George Town Winiyaw about 60 or 70 miles to the Northward, and Beaufort Port Royal about as much to the Southward at each of which there is a Collector only, all our Coast besides, extending about 150 miles, is entirely open, and full of Rivers, Creeks and Inlets, where Vessels may unload at pleasure without great Risque of being disturbed, in like manner they may load ennumerated Goods, or such as are prohibited to be exported, and cary them to Foreign Ports, besides as our Produce is bulky most Planters keep large decked boats, to bring it to Market, from the distant Rivers and Plantations to one of the three Ports of Entry, these Boats are kept as Coasters, but they are capable of performing foreign Voyages, and are under no regulation of entering or Clearing at any Office.

Some years ago I was assured that there was very little illegal Trade carried on here, but I presume they have meant comparatively with regard to some other Provinces, for I am now convinced and know for certain that there is a very considerable illegal Trade in this Province, injurious to the Fair Trader, highly hurtful to the King's Revenue, and destructive to the Manufactures of Britain, & I see it is a growing evil, but I can think of no Expedient so likely to prevent it, as a greater number of diligent Officers from England that know their duty, and if Governors were full empowered, to dismiss such as misbehave, connive at frauds, or are grossly negligent and remiss, at least to suspend them, and appoint others, till directions were sent, or from the Treasury, Your Lordships Board, or from the Commissioners of the Customs, I am persuaded it would have an excellent effect, but I believe a Governor will not care to have Contests with a Comptroller about the power of appointing Officers, for they claim that Right, nor can it be very agreeable to him, After he has seen occasion to make some alteration to have all that he has done overthrown, by a letter from the Surveyor General from the remote parts of Virginia; It is several years since I informed Your Lordships, how necessary another Searcher and two Waiters were for this Port, but I cannot think the business can be done with less than four Waiters and if there were a Searcher and one Waiter

at George Town, and the same at Beaufort Port Royal; they wou'd soon save three times their Sallaries to the Revenue, and in a great measure put a stop to illicit Trade; Notwithstanding the several remarks which I have made upon this Article, and the inconveniences that I have pointed out, which I hope Your Lordships, or the Commissioners of the Customs will provide some remedy for, yet I am of opinion that this Instruction as it at present Stands may be very proper to be continued,

2d.<sup>3</sup> The Officer mentioned in this Paragraph is generally appointed by His Majesty, by His Mandamus or Sign Manual to the Governor to Commissionate him in the Colonys, and he generally gives Security to the Commissioners of the Customs, and appoints a Deputy, but it were to be wished that more care were taken in the nomination of these Deputies; about four or five months agoe, one Mr. Raper produced to me a Deputation from the Gentleman who I am informed has the Sign Manual for that Office, but I acquainted him, that as the Gentleman had never been here, nor had never sent the Sign Manual, or had any Commission, neither did it appear that he had ever given Security to the Commissioners of the Customs, nor had ever any person acted by virtue of a Deputation under him, I thought it would be more proper if Mr. Raper had a Commission from me, upon giving Security to pay the Gentleman in England the sum that he had agreed to pay for being his Deputy, and by this means he would have a power also of appointing Deputies at Port Royal and George Town, which he could not do if he acted by Deputation, and I accordingly gave him a Commission, but his behaviour soon gave me reason to think that I should be in a very dangerous Situation to stand his Security, & therefore I recalled my Commission, and told him if he acted any longer it must be by virtue of his Deputation, and I accordingly qualified him as Deputy Naval Officer, and soon after he produced to me a Certificate from the Commissioners of the Customs, that his Principal had given Security according to Law; I shall have occasion to take notice of his conduct under some other Heads; and at present only take notice that it is impossible that any Gentleman who has never been in America, and is wholly unacquainted with the People of the Province, can be so good a Judge of the merit & fitness of any of them to execute any

<sup>3</sup> See § 1096 A, requiring the naval officer to be approved by, and to give security to, the Commissioners of the Customs in Great Britain and to produce to the governor a certificate of having done so.

Office, as a Governor, and as the persons who procure such Deputations, seldom look upon themselves as bound to observe or follow the Governors directions, I humbly propose that some words to the following purpose may be added, to this Article

And whereas great prejudice may happen to our Service by the absence of the Person so approved of by the Commissioners of the Customs, therefore it is our will and pleasure that immediately upon such his absence, you do appoint some other fit and well qualified person to execute the said place, taking care however that the Persons so by you appointed do give security not only for the true and faithful performance of their duty, but for being accountable to the Person who hath given Security to the Commissioners of the Customs, for a full Moiety of the Profits accruing during his absence, and in the mean time you our Governor shall be answerable for any Offences Neglects or misdemeanors of the Person or Persons so by you appointed, agreeable to the aforesaid Act, for preventing frauds and regulating abuses in the Plantation Trade, made in the Seventh and Eighth years of the Reign of King William the Third.<sup>4</sup>

<sup>3<sup>rd</sup></sup> & <sup>5</sup> This Article my Lords is a very important one, & as I am assured, that my sense and interpretation of it, and of the Laws upon which it is founded, differs widely from the Practice of most other Governors but Mr. Granville, I shall state the matter to Your Lordships

The Merchants contend that the Spaniards shou'd be permitted to import in their own Vessels Gold & Silver, Logwood, Cochineal &c the Produce of their Colonys, and carry off European Manufactures, and East India Goods, legally imported hither from Great Britain, I alledge that it is against this Article of my Instructions, and against the Acts of Trade which I am sworn to observe, to permit Foreigners to carry on any Trade, to, in, or from this Province, in Vessels Foreign built, wholly owned by Foreigners, the Master and Mariners of which are also Foreigners. But as I have often wished that some liberty under proper limitations were indulged the Spaniards, I shall humbly submit the few following Reasons. I need spend no time in satisfying Your Lordships how beneficial it would be for the

<sup>4</sup> & <sup>8</sup> Wm. III, c. 22. No such clause as Glen proposed was added to this article, although already in 1752 a clause had been added in instructions issued for other colonies authorizing naval officers to give security to the surveyor general of the customs in America instead of to the commissioners in Great Britain. See § 1036 B.

<sup>5</sup> See § 1040 A, limiting colonial trade to ships of British build and ownership, manned by crews at least three-fourths British.

Kings Colonys, did the Spanish Laws permit us to trade with the Subjects of that Crown in their American Dominions, but the Golden Fleece is guarded by watchful Dragons, and tho their Governors sometimes connive at small Cargoes, when they are in great want of such Commoditys, and tho the Officers in other Ports not under the immediate Eye of any Governors, are not so rigid, but that they may be mollified with what is commonly called a Present, yet when a tempting Seizure offers they seldom fail of laying a heavy hand upon it. But suppose that our Traders get clear of these greedy Harpies, yet they have Squadrons of Guarda Coasta to Sail through, so that this sort of trade & Navigation is very dangerous, and those that shun being swallowed up by Charybdis often fall into Scylla, All these dangers and difficulties might be avoided were Spanish Vessels allowed to come here, there is no risque of their carrying off ennumerated Goods, they are too bulky to be smuggled, and there is less danger of their supplying us with the Manufactures of Europe or East India Goods, for it is for those Commodities they would come here, but this Port being shut up from them they bear away for other Ports, and carry that Treasure to Cape Francois, and the French Islands, or to Curaoa, which they would willingly leave here, this not only prevents the Sale of English Goods, and Manufactures, but gives our Rivals in Trade, great advantages over us, for they will not only by that means have a Vent for their Manufactures, but they will be much Cheaper supplyd with Logwood, Cochineal, and other Druggs which are absolutely necessary in these Manufactures, from their own Settlements, whilst our Manufacturers must have them from Old Spain where they pay a heavy Indulto to the King and consequently they must come dear; nor does it appear that such a Traffick as is contended for would be prejudicial to the British Navigation, for it is evident that by supplying the Spaniards with Goods here, the Freight from Britain hither would be gained, and by sending the Goods, we get in exchange to Britain, the Freight home would also be gained to the English Shipping; we are not restrained by our own Laws to Trade with them in their Ports, the difference of making the exchange of our Goods for theirs at Cuba, perhaps St. Augustine, or at Charles Town, is too immaterial and inconsiderable, to be put in ballance with the risque we run of being Seiz'd or at least squeez'd, and besides what I have said above I might add that the port Charges is very great and in small ventures eats up the Gain.

The Navigation Act, tho very perfect considering when it was made, almost in the infancy of our Trade, yet was afterwards altered and amended by the 7<sup>th</sup> and 8<sup>th</sup> of William the third, and perhaps it may still need some small alteration in this particular, or possibly my interpretation of these Acts may be too narrow, and when it is said that No Goods or Commodities whatsoever are to be imported into or exported out of any of His Majestys Colonys or Plantations but in British Shipping &c, the meaning may be, that we ought not to be supplyed but by British Shipping and from Great Britain, with what goods we may want for the Consumption of our Colonys, and that the Produce of our Colonys ought also to go to Britain in British Shipping, but that it never could be intended to Prohibit the Spaniards from landing their Logwood and Cochineal their Gold & silver &c, to be given in exchange for British Manufactures, for such Exchange or Trade is not with this Colony, but with Great Britain Via Carolina, perhaps I might add that there are other Acts of Parliament, particularly the 5<sup>th</sup> of His present Majesty intituled An Act to prevent the exportation of Hatts from the Colonys &c<sup>6</sup> where the words are full as strong as in this or in any other Act, and yet I apprehend they cannot be understood in such a Sense, for by that Act no hatts or Fclts whatsoever, dyed or undyed, finished or unfinished, are to be Shiped in any of the British Plantations upon any pretence whatsoever by any person or Persons whatsoever, or Loaden upon any Horse or Cart, to the intent to be exported to any other Plantation or to any other place whatsoever by any Person or Persons whatsoever. Words can hardly be stronger, and yet I presume they never were meant or intended to extend to British made Hatts, and the words dyed or undyed, finished or unfinished imply as much; The Cloathing for Governor Tinkers Independent Company was some time agoe Landed here from England, and carried in another Vessel to Providence but I think that this Act of Parliament, strong as the words seem to be, could never have Justified Seizing or stoping the Hatts. In the Act for the further regulating the Plantation Trade, of the 15<sup>th</sup> and 16<sup>th</sup> of the present King<sup>7</sup> the words are equally strong, and yet it appears clearly by the Preamble, and by other parts of that Law that nothing further is intended than to prevent the covering of Foreign Vessels with British Registers, or in other words, to prevent Foreign Vessels from Foreign Countries to supply the Colonys

<sup>6</sup> The Hat Act, 1732; 5 Geo. II, c. 22.

<sup>7</sup> 1742; 15 Geo. II, c. 31.

with such Commodities as we want for our consumption, or to carry off our Produce; Upon the whole it is to be wished that in some New Act this matter were further explained, or that Governors were allowed to give this favourable, and benign Interpretation to the present Acts, or that some directions might be given them, to act uniformly, for while one thinks himself at liberty to permit it, and another looks upon himself as bound to prevent it, there must be great grumbling and uneasiness.<sup>8</sup>

4<sup>th</sup><sup>9</sup> This Article is litterly observ'd, nor have we ever abused the indulgence we have by Law of Shipping our Rice by licence directly to any part of Europe to the Southward of Cape Finistere, but I must observe to Your Lordships that by the 7<sup>th</sup> Paragraph of the Act for encouragement of Trade in the 15 of Charles the 2<sup>nd</sup>,<sup>10</sup> the Western Islands & Madera seem, to be deemed parts of Europe, altho they really are not, they are I suppose supplyed by Smugglers by which means the duty which the Fair Trader would pay could he send Rice thither by Licence is lost, it is also greatly to be wished that we had the same indulgence to carry our Rice to the Northward, a liberty that was some years agoe given to the Sugar Islands and at that time I was assured by the Ministry, that we should have such liberty, and I was in hopes of obtaining it by a Clause in that very Act, but Mr. John Sharp, and Mr. Ashley, who I think Sollicited that Bill, did not care to croud too many things into it.<sup>11</sup>

5.<sup>12</sup> Care is taken that proper Certificates be produced that Vessels have given Security in Britain to carry thither their Ladings of Plantation Goods or Bond is taken here, for their so doing, and if proper Certificates are not produced of their having discharged, their Ladings accordingly, the Bonds are put in Suit, the Condition of these Bonds is within 18 months, to produce Certificates agreeable, to this Instruction, and the Act upon which it is founded, but by an

<sup>8</sup> No change was made in the instructions in consequence of this suggestion, nor in the Navigation Acts; though it does in some degree anticipate the opening of "free ports" in Jamaica and Dominica in 1766 by act of parliament, 6 Geo. III, c. 49.

<sup>9</sup> See §§ 1043 and 1046 A, relating to the export of enumerated commodities.

<sup>10</sup> The Staple Act, 1663; 15 Car. II, c. 7.

<sup>11</sup> In 1765 an act of parliament, while not granting the complete freedom of export which Glen desired, cut in half the British duty on rice imported if it was to be immediately reexported. 4 Geo. III, c. 45. See G. L. Beer, *British Colonial Policy 1745-1765*, p. 226, note 4.

<sup>12</sup> See § 1047 A, prescribing steps to prevent the use of false certificates. These certificates were either of having given security in Great Britain to carry enumerated commodities thither only, or of having carried such commodities to Great Britain in conformity to security already given.

Act of Queen Ann<sup>18</sup> the time seems to be prolonged to three years, the Court indulges two years more, so that there is no reason to complain, of any hardships and yet a prodigious Clamour was raised here about seven years agoe, upon putting this Instruction or rather the Acts of Parliament in execution, One Alexand'r Murray had at that time been Naval Officer, a person so extremely remiss and negligent that he had made no entry in his books for the space of two years, nor had bond been taken for great numbers of Vessels, as the Law directs and most bonds had been suffered to expire without having been put in Suit altho no Certificates had been produced to Cancel them, upon his Daeth I appointed Mr. Hunt a most worthy Gentleman obliging him however to give Security to pay to any Gentleman that might have the Sign Manual for this Office what was usually paid by Deputys which I think is £.90 or £.100 p<sup>r</sup> Annum. Mr. Hunt appointed Mr. Hopton his Deputy, a Gentleman who had been long in the Custom House in Bristol and of so Clear a head, that he waded through this Chaos and instead of confusion restored order and regularity to that office, Clamour in the beginning of this Reformation was unavoidable, and it was chiefly against me, and I remember there was none louder than the Person who at present executes this Office, who went about exclaiming against the Practice of putting Bonds in Suit, as being burthensome to Trade, all this however Subsided, by the prudent and discreet conduct of Mr. Hopton who constantly went to the Merchants himself to put them in mind to send for Certificates to Cancel their Bonds and never put one in Suit without going a Second time to enquire whether they had received the Certificates, but this Dep<sup>r</sup> notwithstanding his former complaints had lately without acquainting me, (as it was his duty) put into the Attorney Generals hands seventeen Bonds with directions to put them in Suit, some were within 2 days of expiring and some wanted near two years this again made a great noise, and when he was asked by some of the Gentlemen who were Sued, the reason of such unprecedented severity, he told them it was by the Governors directions, altho the directions I had given him were quite contrary.

There are no directions how Certificates should be Signed to discharge Bonds given for enumerated Goods shipped here for other British Plantations, sometimes they are under the hands & Seals of the Collector, Comptroller and Naval Officer, sometimes of two, and

<sup>18</sup> 1709; 8 Anne, c. 14.

sometimes of one of them only, yet I have no reason to think that any of them have been counterfeited, but I believe it is certain that some of them are false, for Vessels have given Bonds here for enumerated Goods, to be landed in some of the Northern Governments, but they have Sailed directly to Holland with them, and in a month or two after their leaving this Port, Certificates of their having discharged their Lading in such Northern Governments has been produced, altho it is certain, that they never touched there. The Commissioners of the Customs have been apprized of this Practice.

The Security given is by Persons of known Residence and unsuspected ability, but it is not easey to know certainly mens circumstances.

6.<sup>14</sup> This Article is observed.

7.<sup>15</sup> It seems probable that this Instruction was given at the first settling of the Colonys. The Collector of the Customs and Naval Officer send each such Lists Quarterly to the Commissioners of the Customs, and the Master of each Vessel has at his Clearing a Certificate of the Contents and quality of his lading & that he legally Loaded the same, under the hands and Seals of the Collector Comptroller and Naval Officer to deliver to the Collector of the Port to which the Vessel is bound. But for Ships Loading Rice directly for the Southward of Cape Finistere, the licence with the weight of each barrel endorsed on, or annexed to it, and a Certificate of the Neat Weight of the whole Cargo, is delivered to the Master, and a duplicate of the Licence with the like neat weight of the whole Cargo, is sent by the Collector of the Customs to Great Britain by one of the next Ships to Ascertain the weight to be paid duty for

8 & 9.<sup>16</sup> The Laws upon which these Articles are founded are the Bulwarks of the British Trade, and therefore the smallest breach in them ought to be carefully guarded against. It is the duty of Governors to be awake themselves and to be watchful over inferior Officers entrusted with the immediate Execution of them; they ought to be above being awed by the Clamours of the People, and above the Suspicion of being swayed or seduced either by their good words, or good deeds, and he that is very covetous of either is the Slave

<sup>14</sup> See § 1049 which explains that the payment of the "plantation duty" does not exempt enumerated commodities from the requirement of shipment to Great Britain or her colonies only.

<sup>15</sup> See § 1050 A, requiring the governor to send to the Treasury, the Board of Trade, and the Commissioners of the Customs quarterly lists of ships trading in the province and also invoices of ladings.

<sup>16</sup> See §§ 1051 A, and 1052 relating to the enforcement of the Staple Act.

of the People, and forfeits the freedom that is absolutely necessary for his King and Countrys Service. But I must observe to Your Lordships the many difficulties that a Governor has to struggle with in the first place there is no fund whatever for carrying on Prosecutions, at least there is no person that thinks he has power to apply the Kings money to such purposes, and the Sallery and Lawful perquisites of the Officers of the Customs afford them but a bare maintenance (almost every Article of expence being greater than in England) and consequently they are incapable of defraying the Charges of a Prosecution which here are very great whereas the owners of Ships are generally Rich men and will grudge no expence to defend their Property, and to ruin those Officers who are so hardy as to be honest, and this they will do even when they know they are in the wrong, in order to terrify others from doing their duty, and what is wonderful many fair Traders, tho greatly hurt by illicit Trade will be ready enough to Joyn their heads & Purses against such Officers, perhaps from an ill grounded apprehension, that the Condemnation of Vessels upon any account may deter others from venturing here, I shall beg leave to state to Your Lordships two or three cases that have happened in this Province within these few years,  
Vizt

About 2 years agoe a Ship put into this Port in distress from the Bay of Campeachia with Logwood, the Master acquainted me that some time before, he had the misfortune to be taken by the Spaniards trading contrary to their Laws & that his Vessel had been condemned, but that having met with some friends, they supplied him with money to enable him to purchase another Vessel and Cargo of Logwood &c. with which he said he intended to go to Jamaica, but meeting with bad weather he put into this Port, he had no Register but produced a Bill of Sale of the Vessel and Cargo from Foreigners to him, and made oath that the Vessel was of the built of Ireland and Navigated by His Majesty's Subjects, and the price of Logwood being here high, he landed and sold a considerable part of the Cargo, at the same time it was surmised, that the Vessel and Cargo were Spanish property, and that she was Navigated two thirds by Spanish Sailors, there being fourteen Spanish Marriners on board, and but six English, two of which had ben hired in this Port, to help him to unload several of the Spaniards were examined in the presence of the Collector who took down their Examinations in writing, and tho they were separately examined, yet they all agreed and confirmed the

above Reports and said they were paid Wages as Sailors on board her and were bound for Carthegena whereupon she was seized by one of the Searchers and Libelled in the Court of Admiralty, but the witnesses were afterwards practiced upon by some Spanish Gentlemen on board the Vessel who were the real owners of the Ship and Cargo, and being carried before a Magistrate made oath that they were only Passengers and as to the property of the Vessel and Cargo they believed it was British, upon which the Attorneys & Lawyers said, it would be in vain to proceed and advised the Officer to drop the Prosecution, (which he accordingly did and being threatened to be Sued for damages he represented to me, that it would prove his ruin for that he had no money to pay damages or even the expence that had been incurred by the Suit, and tho the seizing was entirely an Act of his own without any order or directions from me, yet I imagined it might be for the good of the Service to save him harmless I therefore paid the Fees of the Court, the Lawyers Accounts and gave a Sum of money to quiet the Captain, this amounted to more than the Officers whole years Salary and also wou'd have been impossible for him to have paid, and therefore I did it out of my own Pocket.<sup>17</sup>

I formerly acquainted Your Lordships of the Condemnation of a dutch Ship here for illegally Trading in His Majestys Colonys I must beg leave to be fuller upon that particular.

during the War a ship said to be bound from Holland to Curaçoa, was carried into Jamaica by one of His Majestys Ships for carrying contraband Commodities to the Enemy, but being acquitted she set Sail for Curaçoa, and after having been a considerable time at Sea she put back to Jamaica under pretence of refitting and sailing from thence a second time the Captain for a considerable reward carried off w<sup>th</sup> him a Gentleman whom he knew to be largely indebted in Jamaica, she was afterwards met with by a Jamaica Privateer, who brought her into this Port as a Prize, upon the same pretence of her Trading with the French and Spaniards, but she was here in like manner acquitted, the Captors however appealed from that Decree to the High Court of Admiralty in England and gave Security to Prosecute the same, but while this matter was in Agita-

<sup>17</sup> This incident, though illustrating the difficulty of enforcement, clearly involved violation of the Navigation Act of 1660 rather than of the Staple Act of 1663, to which the articles of Glen's trade instructions under discussion relate. The next incident described is more relevant.

tion here, the Gentleman who was carried off from Jamaica, said that if she escaped that Prosecution she ought at least to be condemned for Trading illegally in Jamaica, and that the Captain had frequently told him in the Passage that he had sold great quantities of Goods there here, not for money to defend his Ship in the Court or to Pay for refitting his Vessel, for that he had an unlimited Credit, but because he sold his Goods at a better Market, than at Curaçoa, and the Dutch Sailors themselves made no secret of this telling publickly that many Goods had been sold by the Governors permission, and many without his knowledge, that the Naval Officer had sold some publickly, but that the Captain had sold many privately, and that they had carried some ashore in the day time which were Lodged in the King's Warehouse, but that they had also carried great quantys on Shore in the Night time by the Captains Orders who had sold them to private Familys, that thcse consisted in Linnens, Woolens and East India Goods, upon this one of the Officers of the Customs took opinion of one of the most eminent Lawyers in this place whether the Vessel could be prosecuted for such Practices, and if it was probable that she would be condemned, his answer was, that there could be no doubt that such a Trade was illegal but that the Prosecution would be attended with very great expence, and therefore it would not be prudent for him to undertake it, for that the Dutch were very Jealous of their Trade and might probably make a National concern of it, which discouraged that Officer and made him desist, however there being the most pregnant Proofs of every particular circumstance, and the Attorney General being clearly of opinion that all these doings of the Dutch Master were contrary to Law, and that the Vessel if prosecuted would be certainly condemned, the Naval Officer thought it his duty to Seize her, but at the same time he acquainted me, that the Circumstance of his Family made it impossible for him, to proceed with the Prosecution I told him that as I was convinced of the necessity of carrying it on to prevent such practices for the future, money should not be wanting, and accordingly the Attorney General, the present Chief Justice, and some other of the most eminent Lawyers here were retained and the Vessel was Libelled, in the Court of Admiralty and after a Suit which lasted about 7 months and proved not only a tedious but a very expensive one, having cost me near £.1000 Sterling she was condemned, from this Decree they appealed to the High Court of Admiralty in England where they again spun out the Proceedings

for several years purposely I presume that the Ship and Cargo might perish and so be lost, to those to whom she must be finally Decreed upon a full hearing, for neither the Ship nor any part of the Cargo were sold but the Goods were put into Warehouses under the Joyst Custody of the Collector for the King, and the Dutch Agents and tho the Naval Officer who by the Decree thought himself Interested in the Ship and Goods, offered to be at half the Expence of sending the ship into the Freshes, that she might be kept from the Worms, and desired that the Goods might be aired, the Dutch Agents opposed it, and the Judge of the Admiralty here having been served with an Inhibition from the High Court of Admiralty in England, did not think himself at liberty to Grant any Order for that purpose, and that this was evidently their design appears from their affected delays in England, and their declining to enter upon the merits of the Cause, having only gone upon the point, that I Judge [sic] here had no proper Jurisdiction, altho they acquiesced in it at the Tryal here, The Proctors Bill in Doctors Commons has cost me £.400 Sterling and it is now before the Delegates and if their Lordships should be of opinion that the Judge had no proper Cognizance still that does not determine the Cause, the Merits must be tryed in Westminster Hall.

Your Lordships know that imediately upon the Condemnation I acquainted His Grace, the Duke of Bedford,<sup>18</sup> with the whole transaction praying that the would give directions to the Gentlemen employed to support the Decree either to proceed or desist, but he declined giving any directions, I also made an offer of my third to be disposed of at His Majestys pleasure; This has created me infinite trouble and a very large expence, the Naval Officer must otherwise have been absolutely ruined, for doing what his conscience dictated to him was his duty & for w<sup>ch</sup> he had the opinion of the most eminent Lawyers here, This example My Lords, has so terrified the Officers of the Customs that many of them are deterred from doing their duty even in what appear to me to be clear Cases, a late example of which I now lay before Your Lordships.

One James Abercrombey Master of the Ship St. Andrew belonging to John Stedman of Rotterdam lately set sail from Holland bound to Philadelphia with Palatines, and having put them on Shore he took on board a Cargo of Bread and Flower for this Port, and upon his arrival here he entered at the several Offices, giving in an In-

<sup>18</sup> Secretary of state.

ventory of the said Bread and Flower, and making oath that he had no other Goods whatever on board, but as he had used this Trade for many years and has constantly Smuggled Coargoes of Dutch Manufactures, the Naval Officer and two Searchers went on board his Vessel to visit her four or five days after she had been in Port, and had begun to Unload and immediately found two Boxes containing, Hollands, Cambricks, and printed Callicoes for which he had no Cocquet or other Custom House dispatch to shew they were Laden in Britain to the amount of £.100 Sterling and upwards Prime Cost in Holland as they were appraised by some Persons in this place, acquainted with the Prices of such Commodities, I was afterward made acquainted with this Seizure by the Naval Officer and one of the Searchers, who told me that they had known him guilty of this practice formerly and had cautioned him against it, upon which I desired them to do their duty, telling them that the Ship was liable to Seizure, as well as those Goods, and that it was impossible to be too strict in such cases for that the King was not only by such means defrauded of his dutys and the fair Trader greatly injured but that they had a tendency to cut off the British Manufactures by the Roots, but the Collector acquainted me that he apprehended, that they were discouraged & deterred by the expence I had been led into upon such an Account, which made me give them Assurances that I would defray a Share of the expence whether they succeeded in the Condemnation of the Vessel or not, but that the Case was so clear, as not to admit of the least doubt or difficulty, and the Attorney General gave them a Signed opinion to the same purpose, provided there was sufficient proof that the said Goods were imported in the said Ship, and upon asking them whether they had two Witnesses who were to gain nothing by the Condemnation, they acquainted him that they had agreed before they went on board to Share equally all that should be Seized, and had not provided any other Witnesses upon which Mr. Roupel one of the Searchers added, that if the Share that he was intitled to by Law would set aside his Testimony, he would very readily relinquish it & said that he thought it was the duty of the other Officers to do so, but neither of the other two would either seize the Ship or relinquish their Share so as to be evidences for the condemnation if Seized, however this did not discourage Mr. Roupel from Seizing the Ship as forfeited, nor doubting but these Gentlemen would soon see their duty, but upon their proving obstinate he was forced to drop the Seizure of the Ship and only

Libelled the Goods which were condemned of Course as no one Claimed them, however I still insisted that the Vessel ought to be Seized, but in the mean time the Master carried her off in the Night time without Clearing at any of the Offices, the Deputy Naval Officers conduct in this and many other other instances relating to his Office is in my opinion highly blameable, I shall therefore Suspend him when I can find a proper person to execute that Office, who will give Security to the Principal to pay him the same Sum that he receives from the present Deputy.

10.<sup>19</sup> There are no Laws or By Laws in this Province repugnant to the British Laws relating to Trade.

11.<sup>20</sup> This Article has been constantly observ'd and complied with,

12.<sup>21</sup> This Article is in like manner constantly observ'd and complied with.

13.<sup>22</sup> All that is in the power of the Governor to do has been done to enforce the observation of this Article, but notwithstanding the Vigilance of the Officers it is to be feared, there are great quantities of Foreign Rum Melasses and Sugars clandestinely imported into this Province without paying the duty.

But perhaps the method in which this Act is put in execution by the Officers of the Customs here with regard to Foreign Rum, Sugar and Molasses not clandestinely imported may also be detrimental to the Revenues, at least I cannot find any foundation for their Practice in that Act, for the Act is extremely particular that the Dutys thereby imposed shall be paid down in ready money by the Importers thereof before landing the same and in case of landing or being put on Shore before the Dutys are duly paid, they are forfeited and may be Seized by the Governor &c. and there is no Clause or Sentence throughout the whole Law for drawing back this Duty on its being Reshipped, but it has lately come to my knowledge, that when any of the said Goods or Commoditys are intended to be Reshipped, there is no Duty whatever paid, either before, at, or after Landing, but they may be sold to other Merchants and sent off in other Ships to any Ports whatever, this I think is evidently against the Letter of the Law, and in my humble opinion is equally against

<sup>19</sup> See § 1053 forbidding any laws or by-laws repugnant to the acts of trade.

<sup>20</sup> See § 1054 requiring the governor to assist the customs and admiralty officers, and § 1055 urging the provision of free copies of necessary records for the surveyor general.

<sup>21</sup> See § 1057 relating to the collection of the Greenwich Hospital sixpences.

<sup>22</sup> See § 1058 relating to the enforcement of the Molasses Act.

the Spirit of it, and would have a tendency to defeat the very intent of making it, w<sup>ch</sup> was to give some advantage and relief to His Majestys Sugar Colonys and to enable them to carry on the Sugar Trade upon an equal footing with Foreign Sugar Colonys.

14. 15. & 16<sup>23</sup> These Articles are also duly and litterally observed here.

17.<sup>24</sup> As the Naval Officer is by the Acts of Trade considered as the Governors Officer, he has generally by the Governors direction carried on the Correspondence with the Commissioners of the Customs, but as there are several things contained in this letter fit for them to be advised of and which cannot be so properly convey'd to their knowledge thro that Channel, I propose to send them a Duplicate of it, the Management of the Revenues of the Customs is by that Board under the imediate authority and directions of the Commissioners of the Treasury, and if the Lords Commissioners for Trade and Plantations had power and authority by Act of Parliament, or from His Majesty to give directions for ordering and regulating the Trade in the Plantations it would in my humble opinion be attended with many happy consequences and would confine the Correspondence of the Governors in a great measure to that single Channel agreeable to what seems to be His Majestys intention by His late order in Council.

18.<sup>25</sup> I have no observations to make upon this Article.

19.<sup>26</sup> This Article I conceive to be of great importance and the Laws that direct how Vessels Trading to the Plantations are to be Registered ought to be duly observed tho Cases sometimes happen that seem not agreeable to these Laws, but when there is reason to apprehend, that there is no fraud intended they have been constantly passed over, there are some Practices however that have hitherto been permitted that I think may have very bad consequences, should they be continued, and the Vessel that I have before taken notice of called the St. Andrew I have reason to believe was in those Circumstances;<sup>27</sup> Jn<sup>o</sup> Stedman a British Merchant residing in Holland gave directions to have a Ship built at Boston

<sup>23</sup> See § 1056 relating to juries in cases involving the acts of trade, § 1060 requiring judicial and financial officials to be native-born British subjects, and § 1061 authorizing the governor temporarily to fill vacancies in the judiciary.

<sup>24</sup> See § 1062 requiring the governor to correspond with the Commissioners of the Customs.

<sup>25</sup> See § 1059 requiring the governor to report sales of land to aliens.

<sup>26</sup> See § 1063 A, relating to the registration of ships.

<sup>27</sup> See above pp. 898-900.

in New England, a part of the money is advanced to the Builder to enable him to go on with the Vessel, another part upon her being Launched, and the remainder before she sets Sail, but that she may be Registered in Order to be in a Condition to take in a Loading the Builder makes Oath, that the said Vessel belongs to him (he having not hitherto received the full payments for her) and to John Stedman a British Merchant residing in Rotterdam, presently after he receives the Remainder of the Sum, that was due to him, and so the Sole property becomes vested in the said John Stedman and the Vessel continues to be employed in Trade between Holland and America for many years under that Register, without any alteration of it, and it is believed that most of the Ships belonging to that Gentleman, and to other Merchants residing in Foreign Countries Trading to America are partly owned by Foreign Merchants, their Neighbours and friends, where they respectively reside, but were it not so I am in some doubt how far a British Man residing constantly with his Family, and Trading in a Foreign Country, and probably sworn to the King or Lord of that state can be equally entitled to Trade to, or from and in His Majestys Plantations, as if he was an Inhabitant in Great Britain, or the British Plantations, and the 14<sup>th</sup> & 15<sup>th</sup> of Henry the 8<sup>th</sup> Chap: the 4<sup>th</sup> seems to imply that he is to be considered as an Alien, while he abides in such Countrys.

There are other less material Observations w<sup>ch</sup> I shall make upon this Article. Vessels for instance are often registered in some Port in Great Britain tho wholly owned in the Plantations, a Ship belonging to New York is Registered at Cowes, she sails from thence to New York, and makes a second Voyage to the Leeward Islands, and from thence comes to Carolina, this is certainly against, the Letter of the Law, but it would be too severe an Interpretation of it to Seize such Vessel here when the fault perhaps is to be laid to the charge of the Officers either at Cowes or New York. This Article and the Law takes care that in granting a New Register for a Vessel the former one shall be delivered up to be cancelled, but I know of no Law or Instruction that takes notice of the Registers of Vessels that are sold to Foreigners, broken up or lost. The Act of the 15<sup>th</sup> and 16<sup>th</sup> of his present Majesty,<sup>28</sup> provides against Cases that happen not so frequently as some of the others, that is where a Master loses or mislays his Register he must then in order to obtain a new one or

<sup>28</sup> 15 Geo. II, c. 31.

a Certificate for the Voyage, make oath that he hath not disposed of his Register, or knows what is become of it and gives Security in 500 or £.1000 Sterling that no illegal use has been or shall be made thereof and that if found it shall be delivered up to be cancelled, I do not say there is an occasion for any instruction on this Head, but the observation is made with a view to uniformity.

20<sup>th</sup> <sup>29</sup> This Article I conceive to be a very proper one and is duly observed here, nor have any breaches of it ever been attempted, the Wool of our Sheep is mostly used in Stuffing Chairs, Saddles, Matresses &c but I informed Your Lordships, that during the War our Planters were reduced to so low an ebb, that they could hardly afford to purchase necessary Cloathing for their Negroes to keep them from the severity of the weather they were therefore obliged to work up their Wool, and several in a short time came to such a perfection in Manufacturing it that the Stuffs and Camblets made by them were fit for Gentlemens Ware, but they were soon made sensible that the labour of their Negroes might be employed to better advantage in making Indigo and in raising some other Commodities, tho Rice at that time would not answer, so their attempts in the Cloathing way was soon left off, and for many years past there has not been the smallest endeavour to continue it.

21. <sup>30</sup> There is no Tobacco exported from hence that I know of, what little is made here is by the Negroes, for their own smoking and what we our selves consume is imported ready Manufactured from Great Britain Yet as Tobacco will grow here, this Instruction may be proper to be continued.

22<sup>nd</sup> <sup>31</sup> There is no instance of any Ship either Foreign or British having ever appeared upon the Coast of this Colony from the East Indies, and if any such should ever Arrive, the greatest care shall be taken to prevent them from breaking Bulk, or disposing of any of the Goods, or Negroes that they may have on board. There are some words in this Article that perhaps might be softened, without weakening the force of it consistently enough with what I presume was the principal intention of it, namely to prevent Trading or exchanging the Merchandise of the East Indies for the Commodities of these Countries, the Words I mean are. "*Do give notice* to the Master or other Person having the Command of such Ship or Ships

<sup>29</sup> See § 1065 relating to the enforcement of the Wool Act.

<sup>30</sup> See § 1067 relating to the enforcement of the act prohibiting the importation into England of tobacco in bulk.

<sup>31</sup> See § 1070 imposing checks upon clandestine East India trade.

forthwith to depart out of the limits of your Government without giving them any relief, support, aid or assistance altho it should be pretended that such Ship or Ships were, or the same really should be in distress, want, disability, danger of sinking, or for, or upon any other reason or pretence whatsoever”<sup>32</sup>

Some of the observations which I made upon the fifth Article might be repeated and enlarged upon here<sup>33</sup> but I rather chuse to refer to them<sup>34</sup>

I am sorry that the conduct of any Governor should have given occasion for some of the words in this Article which I am afraid may be considered as a standing charge against every Governor and therefore I wish their names had been inserted in this Article, or that a few words were left out, “Namely that abuses must arise from the remissness or connivance of such as have been or are Governors.”

The Laws lay Governors under the obligation of a Solemn Oath they inflict pecuniary penalties and subject them to other incapacities, and they are sure to receive the most rigorous iمارکe of His Majestys highest displeasure should they fail in the due observance of these Laws and Instructions by any wilful fault or neglect, no Governor in his right senses will be bold enough to treat these matters in a slight manner, the Trade of Great Britain and His Majestys Revenues are greatly interested in his behaviour, and therefore he will doubtless cause them to be well and truly observed, but I wish His Majesty would be graciously pleased to lodge a power in his Governors to mitigate or soften the rigour, and severity of these Laws for it sometimes happens that some of His Majestys faithfull Subjects the fair Traders fall under the letter of these penal Statues either by ignorance or inadvertance and sometimes by the neglect of their Servants & thereby run the risque of ruin tho there is no fraud intended.

As I think it is my duty to censure & condemn the conduct of some of the inferior Officers of the Customs I should deserve blame if I did not acquaint Your Lordships that the Comptroller and Collector of the Customs are Gentlemen of perfect honour, of great abilitys and diligence, and it is with the greatest diffidence of my own opinion, that I have submitted these observations upon the Laws as they

<sup>32</sup> These words were not “softened” in subsequent trade instructions.

<sup>33</sup> Glen is now apparently discussing the 23rd or final article of his trade instructions, § 1073 A, B, a general injunction to the governor to enforce the acts of trade.

<sup>34</sup> See above pp. 892–894.

differ I believe in some points from the opinion and practice of the Collector, but as Your Lordships expected my own sentiments I have sent them purely as such

I am with the greatest Respect  
My Lords  
Your Lordships  
most obedient and  
most humble Servant  
JAMES GLEN

Right Hono<sup>b1e</sup>  
Lord Commiss<sup>rs</sup>  
for Trade & Plantations.

[Endorsed] South Carolina Letter from Mr. Glen Gov<sup>r</sup> of South Carolina, to the Board, dated in March 1753, containing his Observations on His Majesty's Instructions to him relating to the Acts of Trade & Navigation in pursuance of the Board's Letter of the 3<sup>d</sup>

June 1752  
Rec<sup>d</sup> August 20<sup>th</sup>  
Read April 5

} 1753  
1754.<sup>35</sup>

<sup>35</sup> See *Board of Trade Journal*, 1754-58, p. 34.



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